

1 IN THE DISTRICT COURT OF THE UNITED STATES
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

3 UNITED STATES OF AMERICA,)
4)
4 Plaintiff,) Judge Wells
5) Cleveland, Ohio
5 vs.)
6) Criminal Action
6 JAMES A. TRAFICANT, JR.,) Number 4:01CR207
7)
7 Defendant.)

8 - - - - -
9 TRANSCRIPT OF PROCEEDINGS HAD BEFORE
10 THE HONORABLE LESLEY WELLS
11 JUDGE OF SAID COURT,
12 ON WEDNESDAY, MARCH 13, 2002
13 Jury Trial
14 Volume 17
15 - - - - -

16
17 APPEARANCES:
17 For the Government: CRAIG S. MORFORD,
18 BERNARD SMITH,
18 MATTHEW KALL,
19 Assistant U.S. Attorneys
19 1800 Bank One Center
20 600 Superior Avenue, East
20 Cleveland, Ohio 44114-2600
21 (216) 622-3600
21 For the Defendant: Pro Se
22 Official Court Reporter: Shirle M. Perkins, RDR, CRR
23 U.S. District Court - Room 539
24 201 Superior Avenue
24 Cleveland, Ohio 44114-1201
25 (216) 241-5622
25 Proceedings recorded by mechanical stenography; transcript
 produced by computer-aided transcription.

1 Wednesday Session, March 13, 2002, at 8:45 A.M.

2 (Proceedings in the absence of the jury:)

3 THE COURT: We've a couple things we have to
4 deal with before we bring the jury in. Okay. So you can
5 go ahead and open court.

6 THE COURT: Congressman?

7 MR. TRAFICANT: Your Honor, I have two oral
8 motions to make to the court.

9 THE COURT: Okay.

10 MR. TRAFICANT: First one is I want the notes
11 and records pertaining to FBI Agent Speranza and his rape
12 of one of my constituents as held in Judge O'Malley's
13 court.

14 Second, I want all the notes and documents of Agent
15 Pikunas as including 302s of intimidation of one of my
16 staffers.

17 THE COURT: Okay. I notice that you filed
18 something this morning, which is why I have before the jury
19 comes in given you an opportunity to do something.

20 I have a copy of something this morning, which --

21 MR. TRAFICANT: It's an affidavit.

22 THE COURT: Yeah, an affidavit, and we will
23 deal with that, but we won't deal with it right this
24 minute. These other two motions you need to reduce to
25 writing. You can't make a motion of that kind orally.

Bliton - Cross Continued

1 It's too casual a way to do what it is that you want the
2 Court to pay attention to.

3 And we'll go forward with whatever it is that you
4 ended up filing, just like we do with any other motion.
5 The Government will have an opportunity to respond to it.

6 MR. TRAFICANT: I'll be glad to do that.

7 THE COURT: Thank you. Bring in the jury,
8 please.

9 (Proceedings resumed in the presence of the jury:)

10 THE COURT: You're still under oath. Thank
11 you. Good morning, everyone.

12 THE JURY: Good morning.

13 CROSS-EXAMINATION OF KIMBERLY HARRIS BLITON

14 BY MR. TRAFICANT:

15 Q. Good morning, Kim.

16 A. Good morning.

17 Q. I have a couple of questions that we didn't get
18 through, and I would like to take them up. And I hope that
19 you weren't inconvenienced by staying over.

20 A. Thank you.

21 Q. You recall when you were first interviewed by the
22 FBI?

23 A. Yes.

24 Q. Approximately what was that date?

25 A. As I said yesterday, I -- I don't remember. It was

Bliton - Cross Continued

1 over a year ago, prior to the Grand Jury.

2 THE COURT: You're going to need to speak a
3 little louder so everyone can hear you.

4 Q. Did I ever call you about this case at all?

5 A. No.

6 Q. Did I ever talk to you about your testimony?

7 A. No.

8 Q. Did I ever question you about subpoenas?

9 A. No.

10 Q. Now, you testified yesterday you met with attorney --
11 U.S. Attorneys Mr. Morford and Mr. Kall; is that correct?

12 A. Yes.

13 Q. When did you meet with them?

14 A. The first time was here in Cleveland, just before the
15 Grand Jury.

16 Q. And when was the second time you met with them?

17 A. I guess I didn't hear from them again until -- it was
18 either January or February. So it was maybe about a month
19 ago. I'm not sure what the date was.

20 Q. So you testified then before and after, correct?

21 A. I did what?

22 Q. Before the Grand Jury, they talked with you?

23 A. Yeah.

24 Q. Then after the Grand Jury testimony, they talked to
25 you?

Bliton - Cross Continued

1 A. Right, about a month or two ago before.

2 Q. Now, when they talked with you before you went to the
3 Grand Jury, what were the discussions about?

4 A. They were just asking me questions about the -- what
5 the office had done for Mr. Bucheit and just asked me
6 questions about the letters.

7 Q. And what letters were they asking you about?

8 A. I can't remember exactly which letters, but a number
9 of them were an exhibit yesterday.

10 Q. Were any of the letters the letters that went to
11 Vice-President Al Gore?

12 A. I honestly don't -- I honestly don't remember which
13 letters for sure that they asked me about and which they
14 didn't.

15 Q. After Grand Jury testimony, you said they called you
16 back -- what? -- about a month ago?

17 A. They came to Washington.

18 Q. Who all came to Washington, D.C.?

19 A. Well, I don't know. Everyone in their delegation,
20 but as far as I'm aware, Matt -- I spoke with Matt Kall.

21 Q. At a meeting?

22 A. At a meeting, and I think FBI Agent Denholm, I think,
23 was there, present, and Mr. Morford was in Washington, but
24 he just greeted me, and I just spoke with Matt.

25 Q. Was Mr. Morford present at the meeting?

Bliton - Cross Continued

1 A. No, he wasn't, just -- he just came over and shook my
2 hand and then went off, and I don't know what he did.

3 Q. Was your husband at that meeting?

4 A. No, he wasn't.

5 Q. Did they discuss anything to do with your testimony
6 here today?

7 A. They just showed me the documents, the documents that
8 were an exhibit and just explained that they -- I think I
9 would be a factual witness, and they would be asking me
10 questions about these documents, and they had me just look
11 through them.

12 Q. They didn't ask you those questions at the Grand
13 Jury?

14 A. I'm not -- I'm not sure what questions they asked.

15 Q. Did they show you documents at the Grand Jury?

16 A. I believe so.

17 Q. Did they ask you to bring your documents with you?

18 A. No, I think they already had the documents, and I --
19 I think they may have sent me them before I left to
20 Washington. I can't -- I can't remember for sure.

21 Q. So there were two visits in Washington, one group
22 with FBI people from D.C. and Virginia, right?

23 A. Right.

24 Q. And you had another meeting in Washington where you
25 had U.S. Attorneys, FBI agents from Ohio. Were there

Bliton - Cross Continued

1 Virginia or D.C. FBI agents at that second meeting?

2 A. Not that I'm aware.

3 Q. Did you notice any video cameras?

4 A. No.

5 Q. You notice a tape recorder?

6 A. No.

7 Q. Did they ever ask you if they could record your
8 testimony, your visit?

9 A. You mean at the second meeting? Are you still
10 talking about the second meeting or the first?

11 Q. At any of them.

12 A. Oh, okay. I don't recall any video camera or
13 anything at either meeting. As for a tape, I don't -- I
14 don't remember a tape at the first meeting or -- and I
15 don't remember one at the second, but that doesn't mean
16 that the first -- my recollection of the first meeting is a
17 little bit fuzzy, so I honestly don't remember if there was
18 one present.

19 Q. Now, isn't it a fact that after you met in the
20 District Office with the Virginia officers, you were
21 informed you would be subpoenaed in this case?

22 A. Yeah. At one point they -- they called me to -- to
23 present the subpoena to me.

24 Q. Now, when they first met with you, did they ask you
25 to, quote unquote, voluntarily give them any documents you

Bliton - Cross Continued

1 held in your possession?

2 A. Yes.

3 Q. You testified yesterday you had concerns; is that
4 correct?

5 A. Concerns about what?

6 Q. The documents.

7 A. Yes. I was just -- I was concerned that I wasn't
8 going to do anything wrong by either turning them over or
9 not turning them over.

10 Q. Why did you have those documents in your possession?

11 A. I -- it had been our office policy that upon leaving,
12 we could take writing samples and things just to support
13 the work we had done in case an employer -- a job interview
14 ever asked you, you know, what kind of experience you have.

15 Q. Did you ever call the General Counsel of the House of
16 Representatives?

17 A. Yes. I believe I called the House counsel.

18 Q. What was the purpose of your call?

19 A. I wanted to know if there was anything that came up
20 during the Grand Jury if, you know, if it was possible they
21 could provide me any type of support.

22 Q. That was before the Grand Jury?

23 A. Yeah, I believe so.

24 Q. Now, when you had concerns when they voluntarily
25 asked you for the FBI -- for the documents at the first

Bliton - Cross Continued

1 meeting, you didn't turn them over; is that correct?

2 A. No. I did not bring them to the first meeting.

3 Q. Did you call the General Counsel at any time between
4 then and the call you just talked to me about before the
5 Grand Jury?

6 A. I believe that's when it took place. I can't -- I'm
7 not positive.

8 Q. Do you know -- or do you have knowledge who was
9 reviewing the documents for whether or not they could be
10 used in this trial?

11 MR. KALL: Objection, your Honor.

12 THE COURT: Well, if you have knowledge.

13 THE WITNESS: I -- it might have been the
14 House counsel.

15 I'm not positive it was the House counsel. I
16 know -- there was an outside entity outside the -- your
17 office that was reviewing the documents.

18 Q. And you called them?

19 A. I don't know if it was -- I'm not positive it was the
20 same person or entity.

21 Q. You mentioned the speech and debate clause yesterday.

22 A. Yes.

23 Q. Is that correct?

24 A. Yes.

25 Q. Is that the reason you made the phone call?

Bliton - Cross Continued

1 A. To --

2 Q. To that entity, that was not my office.

3 A. No, not exactly. I was just interested in finding
4 out whether, as a former staffer of congressional staffer,
5 if I could possibly get any type of, you know, advice or
6 support for anything prior to or during the Grand Jury,
7 just in case the question came up, and I wanted to ask
8 somebody a question.

9 Q. Yesterday, you testified you had concerns about the
10 speech and debate clause. Is that a fact?

11 A. Yeah. I was concerned that I wasn't going to do
12 anything wrong.

13 Q. At or about the time --

14 THE COURT: You have to talk a little louder.
15 Your voice is dropping at the end of your sentences. Okay?
16 Would you repeat your answer so everybody can --

17 THE WITNESS: I'm sorry. Can you repeat the
18 question?

19 THE COURT: Well, you said you weren't let's
20 have the reporter read it back.

21 (Thereupon, the record was read back by the
22 Court Reporter.)

23 THE WITNESS: That's correct.

24 BY MR. TRAFICANT:

25 Q. Could you be approximate on your first meeting, the

Bliton - Cross Continued

1 meeting you had in the D.C. office? Can you give us an
2 approximate time?

3 A. In --

4 Q. When you went to the D.C. office.

5 A. Which?

6 Q. For the visit with the FBI, the first visit?

7 A. Oh, in Virginia, you mean the approximate date?

8 Q. Yes.

9 A. No, I'm sorry. I just -- I can't remember exactly
10 when it was.

11 Q. Well -- 302, 6-22.

12 MR. TRAFICANT: Your Honor, mine is marked,
13 302, 6-22, just for the purpose of --

14 THE COURT: You want to get the date from
15 her.

16 MR. TRAFICANT: Page 1 and Page 4, yes.

17 THE COURT: Okay. I didn't look at Page 4,
18 but if you want to see if that'll refresh her recollection,
19 then you need to ask her more questions.

20 BY MR. TRAFICANT:

21 Q. Does this refresh your recollection? Look at the
22 bottom. Could you read the date?

23 MR. KALL: Objection.

24 THE COURT: You can read the date.

25 THE WITNESS: The investigation on June 22,

Bliton - Cross Continued

1 2000.

2 Q. And can you look at the top?

3 A. Date of transcription, June 26th, 2000.

4 Q. And what does that say?

5 A. Federal Bureau of Investigation.

6 THE COURT: Okay.

7 MR. TRAFICANT: Okay. May I look at Page 4
8 real quick?

9 THE COURT: You're going to have to ask her
10 more questions before you -- you can decide.

11 MR. TRAFICANT: Thank you, your Honor.

12 Q. So it was June 22 of the Year 2000. And you had
13 concerns about the speech and debate clause, correct?

14 A. I had concerns during that period of time. I don't
15 know when everything arose and everything happened. I
16 just -- I don't want to commit to a date because I'm
17 actually not positive when everything came up.

18 Q. But does that date now sound like the date that you
19 were in -- where was the building? What building was it in
20 by the way?

21 A. It was just a building in Tyson's Corner. They
22 rented office space in the building.

23 Q. Okay. Now, the second time you met with them -- no,
24 is that the time your husband came in?

25 A. Yes.

Bliton - Cross Continued

- 1 Q. Did you get there first?
- 2 A. Yes.
- 3 Q. What time did your meeting start?
- 4 A. It was -- I think sometime after work. I don't
- 5 remember what time.
- 6 Q. And how long later was it that your husband appeared?
- 7 A. I'm not sure. He appeared probably within -- I don't
- 8 know, less than a half hour.
- 9 Q. Okay.
- 10 A. I don't know.
- 11 Q. Were you asked to voluntarily turn over congressional
- 12 documents in your possession regarding Congressman
- 13 Traficant?
- 14 A. Yes.
- 15 Q. Did the FBI say that they may subpoena them if you do
- 16 not?
- 17 A. Yes.
- 18 Q. And isn't it a fact that you still did not turn over
- 19 the documents to the FBI that day?
- 20 A. Yes.
- 21 Q. Did the FBI ask you about the Bucci brothers?
- 22 A. Yes.
- 23 Q. Did the FBI ask you about a company by the name of
- 24 Prime Contractors?
- 25 A. That I don't remember.

Bliton - Cross Continued

1 Q. Ask you about a company by the name of Asphalt
2 Specialist?

3 A. I don't remember that either. They might -- they may
4 have, but I don't really have any knowledge of any of those
5 entities. So if they did, you know, I wouldn't -- I
6 wouldn't remember if it's not something that I'm familiar
7 with.

8 Q. Did the FBI ask you about a man named David Sugar?

9 A. I'm not sure. That name might have come up. I can't
10 remember.

11 Q. Did Paul Marccone ever tell you -- or isn't it a fact
12 that Paul Marccone told you that House counsel was to make
13 the decisions on the Traficant case documents?

14 MR. KALL: Objection.

15 THE COURT: The objection is sustained.

16 Q. Did you have a conversation with Mr. Marccone about
17 documents?

18 A. Yes. I -- I called him about the documents.

19 Q. How many different times did you call Mr. Marccone?

20 A. I can't remember, maybe once.

21 Q. Could it be more than once?

22 A. It could be. I can't remember.

23 Q. Did you ever discuss whether or not there had been a
24 ruling on the speech and debate clause with anyone?

25 A. I don't remember anything about that.

Bliton - Cross Continued

1 Q. When you turned over the documents ultimately to the
2 FBI, did you have any knowledge of whether or not the
3 documents you were turning over were subject to the speech
4 and debate clause?

5 A. No. I don't know. I mean, Paul just said that I
6 should.

7 MR. KALL: Objection.

8 THE COURT: Sustained. You can't testify as
9 to what somebody else said to you. That person can come in
10 and testify.

11 BY MR. TRAFICANT:

12 Q. Did Mr. Bucheit visit the office often?

13 A. He usually visited, you know, as he did if there was
14 something that he was asking the office to do.

15 Q. Did anyone ever tell you the documentation, documents
16 may be withheld subject to the speech and debate clause?

17 MR. KALL: Objection.

18 THE COURT: Sustained.

19 Q. Did you ever have conversations with the FBI
20 regarding --

21 MR. KALL: Objection.

22 THE COURT: Okay. We'll deal with this at
23 the next break. The speech and debate clause is something
24 which is a matter of law and something I have to deal with
25 in this case and have been dealing with in this case.

Bliton - Redirect/Kall

1 And so we'll work it out at noon or at the next break
2 what kinds of questions might be proper, if any, regarding
3 it for your consideration.

4 BY MR. TRAFICANT:

5 Q. Your parents still live in Ohio, Kim?

6 A. Yes.

7 Q. Do you have any children?

8 A. No.

9 Q. You make more money now than you made when you worked
10 for me?

11 A. Yes.

12 MR. TRAFICANT: No further questions at this
13 time.

14 THE COURT: Thank you.

15 MR. KALL: Very short redirect, your Honor.

16 REDIRECT EXAMINATION OF KIMBERLY HARRIS BLITON

17 BY MR. KALL:

18 Q. Ms. Bliton, you were asked questions about documents
19 that you turned over to the FBI. Do you recall those
20 questions?

21 A. I'm sorry. Yes.

22 Q. Do you recall the questions that you were asked on
23 cross regarding documents that the FBI asked you to turn
24 over?

25 A. The questions the Congressman just asked me?

Bliton - Redirect/Kall

1 Q. Yes.

2 A. Yes.

3 Q. How did you have those documents? How did you come
4 to possess them?

5 A. At the end of my employment in the Congressman's
6 office, I took several as writing samples and so forth as I
7 explained earlier.

8 Q. Were you given permission to take these documents?

9 A. Yes. It was general office policy. It was a common
10 practice.

11 Q. Who gave you permission or set up that policy to your
12 knowledge?

13 A. Paul Marccone.

14 Q. Were there any restrictions on what you could do with
15 those documents that you took?

16 A. Not that I'm aware.

17 Q. Did anyone raise any disclosure concerns when you
18 were allowed to take those documents when you left the
19 office?

20 A. I'm sorry. Can you repeat the question?

21 Q. Well, why did you take these documents? What did you
22 hope to use them for?

23 A. Well, I had, you know, just -- I had just gotten a
24 master's degree in international commerce and policy, and
25 I'd been kind of changing careers or focusing on

Bliton - Recross

1 international trade and so forth in my career, and so I
2 thought that if I -- whoever had questions come up on what
3 kind of experience I had or the potential lawyer needed to
4 see a writing sample, it would be something that I could
5 provide.

6 Q. Did anyone at the office ever raise any kind of
7 concerns with you regarding you taking those documents and
8 showing them to prospective employers as writing samples?

9 A. No.

10 MR. KALL: No further questions.

11 THE COURT: Thank you.

12 RE-CROSS-EXAMINATION OF KIMBERLY HARRIS BLITON

13 BY MR. TRAFICANT:

14 Q. Now, the Government was asking you questions about
15 the policy-taking of those documents. You said it was Paul
16 Marccone?

17 A. I believe it was.

18 Q. Who was the custodian of records in the office, do
19 you know?

20 A. I don't know that we had an official custodian. I'm
21 not sure. I know Paul was generally our supervisor.

22 MR. TRAFICANT: 302, 6-22, Page 6.

23 MR. KALL: Okay.

24 THE COURT: Wait a minute, Congressman.

25 MR. TRAFICANT: I don't have a clean copy,

Bliton - Recross

1 your Honor.

2 THE COURT: I know, but I want to see -- I'll
3 give you a clean copy, but first let me see what it is --
4 which part of this --

5 MR. TRAFICANT: At this point, I'd like her
6 to read.

7 THE COURT: You want her to read it?

8 MR. TRAFICANT: No. I want you to read it.

9 THE COURT: You want me to read it?

10 MR. TRAFICANT: I just want to give this to
11 her to see if it refreshes her memory.

12 THE COURT: Okay.

13 THE COURT: Which part of this specifically
14 do you think she needs her memory refreshed on?

15 MR. TRAFICANT: The first two-thirds of the
16 paragraph reference specific --

17 THE COURT: Right. But she has answered
18 consistently with these things, and I don't know what --
19 what is it that she has not remembered?

20 MR. TRAFICANT: She hasn't remembered --

21 THE COURT: Don't say it out loud. Just show
22 it to me. Which part has she not remembered?

23 MR. TRAFICANT: (Indicating.)

24 THE COURT: Okay. Just a minute.

25 MR. TRAFICANT: From here, read from here on.

Bliton - Recross

1 (Indicating.)

2 THE COURT: Okay.

3 MR. TRAFICANT: She was advised.

4 THE COURT: Sh, sh, sh.

5 MR. TRAFICANT: And then read from here down.

6 (Indicating.)

7 THE WITNESS: I am done.

8 THE COURT: Okay.

9 MR. TRAFICANT: From there down. I want you
10 to read that.

11 THE COURT: I see it. I want to count down
12 these lines. So if one of them can come up here and show
13 me the lines --

14 MR. TRAFICANT: I'll show it to them if you'd
15 like, your Honor. But if you would rather do it in case --

16 THE COURT: No. If you want to use my copy.
17 Why don't you use my copy since yours is marked up? I'm
18 just holding on to --

19 MR. TRAFICANT: I may put a dot that can be
20 erased, your Honor.

21 THE COURT: We could send you guys out for a
22 break, but I don't think this is going to take very long.
23 Okay? Just rest and relax.

24 MR. KALL: That section appears to be
25 consistent with her testimony, your Honor.

Bliton - Recross

1 THE COURT: Right. That's what I see.

2 MR. TRAFICANT: I object. That is not
3 consistent, and I want to refresh the memory of the
4 witness.

5 THE COURT: I understand, but she's testified
6 at length about these things. I don't see what's
7 inconsistent in this, in the area from here.

8 MR. TRAFICANT: Let's look at here.

9 THE COURT: So we'll make a record of this at
10 the next break.

11 MR. TRAFICANT: Let's look at this.

12 THE COURT: Um-hum.

13 MR. TRAFICANT: And I want you to read that
14 sentence. Let me mark it for you, Mr. Kall.

15 THE COURT: Well, this -- this is the
16 sentence you marked, Congressman; is not inconsistent with
17 her testimony, but more than that, she has testified to it.
18 In other words, there's no -- there's no memory to --

19 MR. TRAFICANT: I object.

20 THE COURT: Okay.

21 MR. TRAFICANT: I object to the fact you're
22 limiting my cross-examination of this witness on the speech
23 and debate clause.

24 THE COURT: Okay.

25 MR. TRAFICANT: For the record.

Bliton - Recross

1 THE COURT: All right. Very well. Now, will
2 you move on to a different topic, please? Thank you.

3 BY MR. TRAFICANT:

4 Q. So Paul Marccone gave you these records, documents to
5 take with you when you retired, when you --

6 A. As I stated, it was just general office policy
7 that -- I mean, plenty of other staffers as they departed
8 did exactly the same thing. I don't think it's an unusual
9 practice really anywhere.

10 Q. That might be fine, but did you not, in fact, want to
11 take the most impressive documents you had to influence
12 your employers?

13 A. I was just trying to substantiate what I had done and
14 tried to -- I just in terms of employers down the road, I
15 knew that my memory would fade about this case, and I just
16 wanted to know -- I was wanting to remind -- I wanted to
17 use them sort of as a refresher even for myself in terms of
18 what I had done and what the case was about.

19 Q. That was the Bucheit Gaza case?

20 A. Yes.

21 Q. So you took the letters that you drafted basically
22 that were sent to Vice-President Al Gore from my office,
23 right?

24 A. Generally, yes.

25 Q. And then you turned them over to the Government,

Bliton - Recross

1 right?

2 A. They asked me to, and I complied.

3 Q. Were you at any time instructed that the General
4 Counsel of the House of Representatives would be the
5 determinate who would make decisions on what documents
6 would be subject or not subject to the speech and debate
7 clause?

8 MR. KALL: Objection.

9 THE COURT: Sustained.

10 Q. Isn't it a fact you had great concerns over the
11 documents you had in your possession?

12 A. I was concerned that I wouldn't do the wrong thing
13 and just wanted to make sure I was doing the right thing
14 either way.

15 Q. But you knew there was a thing known as a speech and
16 debate clause, and you, in fact, testified to that,
17 correct?

18 A. I was familiar with it, yes.

19 Q. And isn't that the reason you called and made calls
20 relative to the documents you had in your possession?

21 A. Calls to whom?

22 Q. To anyone concerning the Bucheit case or any
23 documents you had in your possession, whether it was
24 Bucheit or Secretary Baker or secretary of commerce or
25 anybody you might have written to from our office?

Bliton - Recross

1 A. Yes. I just -- I -- well, I called Paul Marccone just
2 to confirm that I wasn't going to get myself in any trouble
3 by turning over any documents.

4 Q. And it is your understanding that you were never
5 instructed by anyone that the General Counsel of the House
6 was reviewing the documents?

7 MR. KALL: Objection, your Honor.

8 THE COURT: The objection is sustained. If
9 you ask another question in this line, I'll have to let the
10 jury go so that we can stop and discuss it.

11 MR. TRAFICANT: I don't want to do that.

12 THE COURT: But I'd rather have you continue
13 with this witness while the jury is here.

14 MR. TRAFICANT: I will do that.

15 THE COURT: Thank you.

16 MR. TRAFICANT: Thank you.

17 BY MR. TRAFICANT:

18 Q. Now, when a letter is written from the Congressman
19 and someone types it, how could you identify who typed the
20 letter?

21 A. There are initials at the bottom.

22 Q. Do you have some letters there?

23 A. Yes.

24 Q. Do you have the letters of the vice-president there?

25 A. Yes.

Bliton - Recross

1 Q. Now, down at the bottom, does it have the initials

2 JAT?

3 A. Yes.

4 Q. Does it have a slash after it?

5 A. Yes.

6 Q. What are the initials?

7 A. KHB.

8 Q. And who did KHB stand for?

9 A. For me.

10 Q. Did you write the letters?

11 A. Yes, I did.

12 Q. And those are the documents you turned over to the
13 Government?

14 MR. KALL: Your Honor, may I ask what exhibit
15 number he's referring to for the record, please?

16 THE COURT: Yes.

17 Q. Could you please read the exhibit numbers for our --

18 A. The one I'm looking at right now is Exhibit 7-44.

19 Q. And would you explain what 7-44 was in essence just
20 basically?

21 A. It's a letter to Vice-President Al Gore from the
22 Congressman's office.

23 THE COURT: Keep your voice up, please.

24 THE WITNESS: Sorry.

25 Q. There was another one from the vice-president?

Bliton - Recross

- 1 A. There's another one. It's Exhibit 7-45.
- 2 Q. And what -- first of all, what was the date on 7-44?
- 3 A. May 22, 1997.
- 4 Q. And was it WITH handwritten notes on it?
- 5 A. Yes.
- 6 Q. Now, when was the second one, 7-45, what was the date
- 7 on that?
- 8 A. This one says June 17, 1997.
- 9 Q. 19 -- when? -- 97?
- 10 A. 1997.
- 11 Q. And who was that letter to?
- 12 A. Vice-President Gore.
- 13 Q. And who was it from?
- 14 A. It's from you.
- 15 Q. Now, the bottom left, are my initials there?
- 16 A. Yes.
- 17 Q. Is there a slash?
- 18 A. Yes.
- 19 Q. And are there initials following that?
- 20 A. Yes.
- 21 Q. What are the initials?
- 22 A. KHB.
- 23 Q. Did you draft that letter?
- 24 A. Yes.
- 25 Q. Did you turn these two letters over to the FBI

Bliton - Recross

1 voluntarily?

2 A. I believe I did.

3 MR. TRAFICANT: No further questions.

4 THE COURT: All right.

5 MR. KALL: Nothing further, your Honor.

6 THE COURT: Thank you.

7 THE COURT: Just wait there for a second.

8 Congressman, if you will wait a minute, I can't deal with
9 your standing question for a reason I assume -- but let me
10 just check something so we can move on.

11 MR. TRAFICANT: I thought you may need some
12 assistance.

13 THE COURT: Thank you.

14 MR. TRAFICANT: But I'm also standing to
15 recommend that maybe the jury can be given an early break
16 to discuss the matter.

17 THE COURT: Well, it's really early, and so I
18 want to just go back for a second. I'm going to let you
19 stand down at this point. We'll go forward with other
20 witnesses, but I'm going to ask you to stay available for a
21 period of time. It won't be a long period of time. So
22 that in the event after the break in the morning, we need
23 to call you back for any reason, you'll be available.
24 Okay? Thank you very much.

25 THE WITNESS: Okay.

Gatti - Direct/Smith

1 MR. TRAFICANT: Your Honor, do I have the
2 right to recall any Government witness?

3 THE COURT: Let's talk about this at the
4 break. Okay?

5 MR. SMITH: The Government calls Robert
6 Gatti.

7 ROBERT J. GATTI,
8 of lawful age, a witness called by the Government,
9 being first duly sworn, was examined
10 and testified as follows:

11 DIRECT EXAMINATION OF ROBERT J. GATTI

12 BY MR. SMITH:

13 Q. Sir, would you please state your full, and spell your
14 last name for the Court Reporter?

15 A. Robert Joseph Gatti, G-A-T-T-I, Junior.

16 Q. And what city do you reside?

17 A. Hubbard, Ohio.

18 Q. And what county is Hubbard in?

19 A. Trumbull County.

20 Q. What specific work do you do now?

21 A. I work for Trumbull County Engineers, heavy equipment
22 operator, and own my own home improvement business.

23 Q. Sir, do you know a person named Kurt Bucheit?

24 A. Yes, I do.

25 Q. You know a person named Bernard J. Bucheit?

Gatti - Direct/Smith

1 A. Yes, I do.

2 Q. Who was Kurt Bucheit?

3 A. Kurt Bucheit was a school boyfriend of mine and still
4 is a friend of mine, that I worked with his family in the
5 Bucheit Companies.

6 Q. And who was Bernard J. Bucheit?

7 A. Kurt's father, the owner of Bucheit Companies.

8 Q. Have you ever had any employment relationship with
9 the Bucheits or any of their businesses?

10 A. Yes, I have.

11 Q. And when was that?

12 A. Early to mid'90s.

13 Q. And what work did you perform for them?

14 A. Various tasks. I was a laborer, carpenter, foreman.

15 Q. And where were you working for them?

16 A. Various places, Washington, D.C., in Pennsylvania,
17 various areas in Youngstown, Ohio.

18 Q. Did Bernard Bucheit go by any nickname that you're
19 aware of?

20 A. No.

21 Q. Near the time that you were working in Washington,
22 D.C., did the name David Manevich arise in connection with
23 your relationship with the Bucheits?

24 A. Yes.

25 Q. Who was David Manevich?

Gatti - Direct/Smith

1 A. David Manevich was a friend of Kurt's and myself's,
2 and at the time, we were in the Bucheits' Boardman office,
3 and Pete and Kurt asked me if I knew a carpenter that can
4 do some work at Mr. Traficant's farm.

5 Q. You just referred to a person named Pete. Who was
6 Pete?

7 A. Pete Bucheit.

8 Q. All right.

9 And is he any different than Bernard J. Bucheit?

10 A. I always known him as Pete Bucheit.

11 Q. Is Bernard J. Bucheit and Pete Bucheit the same
12 person?

13 A. Yes.

14 Q. Is Pete his nickname?

15 A. I don't know. I've known him as Pete.

16 Q. Very good.

17 What was David Manevich's profession?

18 A. Dave Manevich was a carpenter.

19 Q. And how did Mr. Manevich's name arise between you and
20 the Bucheit's?

21 A. Repeat the question, please.

22 Q. How did Mr. Manevich's name come to arise between you
23 and the Bucheits?

24 A. Like I stated earlier, that Mr. Bucheit and Kurt
25 asked me if I knew anybody that could do some work at

Gatti - Direct/Smith

1 Mr. Traficant's farm, and I looked in my book and found
2 Dave Manevich's name and called Dave Manevich and asked him
3 if he would like to do some work at Mr. Traficant's farm,
4 and Mr. Bucheit would pay him.

5 Q. All right.

6 And how long after you talked to the Bucheits, did
7 you talk to Mr. Manevich about going out to do this work?

8 A. It was that morning or that afternoon in the office.
9 It was just minutes, I guess, 15, 20 minutes, or less.

10 Q. Now, were you responsible for paying Mr. Manevich in
11 any way for this work?

12 A. No, sir.

13 Q. Did you ever go out to the farm yourself?

14 A. No, sir.

15 Q. Do you have personal knowledge of the final scope of
16 the project or the work that was done at the farm?

17 A. No, sir.

18 Q. Do you have any personal knowledge of the financial
19 arrangements, if any, between the Bucheits and Congressman
20 Traficant?

21 A. No, sir.

22 Q. Did you ever meet Congressman Traficant personally?

23 A. Yes, sir.

24 Q. And was this before or after you referred the
25 Maneviches to the Bucheits -- or -- withdrawn.

Gatti - Direct/Smith

1 Is that before or after you referred David Manevich
2 to the Bucheits?

3 A. I believe it was after.

4 Q. Under what circumstances did you meet Congressman
5 Traficant?

6 A. Kurt and I were going to meet Mr. Traficant on his
7 boat because Mr. Traficant needed some work done on his
8 boat. So we met Mr. Traficant in the afternoon and went
9 down there to look at the boat, to see what work needed to
10 be done.

11 And we got down there, and we discussed certain
12 things with Mr. Traficant, such as there should be a
13 special type boat carpenter that would do the work there
14 because it was out of our league, and we discussed getting
15 a couple estimates for him, and that's as far as it went.

16 Q. Okay.

17 What -- as you observed the boat, what kind of
18 condition was the boat in?

19 A. It needed some work.

20 Q. All right.

21 Are you able to describe the type of work that
22 appeared to you the boat needed?

23 A. It needed resurfacing. There was some rotted wood.
24 Mr. Traficant pointed out there were some leaks when we
25 went inside the boat.

Gatti - Cross

1 Q. Did you ever go out to that boat again?

2 A. I think we met one of the two persons to give an
3 estimate on the boat afterwards sometime in the next couple
4 weeks after we met with Mr. Traficant.

5 Q. Did the Congressman explain why he wanted you and
6 Kurt to get estimates as opposed to getting them himself?

7 A. No.

8 Q. Who was actually in charge of getting the estimate,
9 you or Kurt?

10 A. We were told by his father, but we both went down
11 together, but Kurt handled it after that.

12 MR. SMITH: May I have a moment, your Honor?

13 THE COURT: Yes.

14 MR. SMITH: Nothing further, your Honor.

15 CROSS-EXAMINATION OF ROBERT J. GATTI

16 BY MR. TRAFICANT:

17 Q. How are you doing, Robert?

18 A. Good.

19 Q. You drive up from Hubbard today?

20 A. Yes, sir.

21 Q. When did you start growing that beard?

22 A. It comes on and off during hunting season. It'll be
23 coming off shortly, spring time.

24 Q. When is hunting season by the way?

25 A. It starts in September, turkey season starts in

Gatti - Cross

1 April.

2 Q. And pardon?

3 A. And turkey season starts in April.

4 Q. What starts in September, what season?

5 A. Small game.

6 MR. SMITH: Objection, relevance, your Honor.

7 THE COURT: That's okay.

8 MR. TRAFICANT: Can he answer?

9 THE COURT: Yeah.

10 Q. Is there two different deer seasons?

11 THE COURT: Okay. That's a problem. I mean,
12 it's okay to just start gently, but we have to stay with
13 the case because we have to give them evidence they can
14 use.

15 BY MR. TRAFICANT:

16 Q. Now, you just testified that you were asked if you
17 knew a carpenter, correct?

18 A. Yes, sir.

19 Q. And you were asked by who you know as Pete?

20 A. Yes, sir.

21 Q. And now you understand that his real name is Bernard
22 Pete Bucheit?

23 A. Yes, sir.

24 Q. Or Bernard J., whatever. But he is one in the same
25 person, is he not?

Gatti - Cross

- 1 A. Yes, sir.
- 2 Q. And he asked you if you knew a contractor?
- 3 A. Yes, sir.
- 4 Q. You do contracting work?
- 5 A. Yes, I do.
- 6 Q. Do you do construction work?
- 7 A. Yes, I do.
- 8 Q. Did they ask you to do it?
- 9 A. No, sir, because at the time I was working with them
- 10 in Washington, D.C.
- 11 Q. Okay.
- 12 So you recommended somebody?
- 13 A. Yes, sir.
- 14 Q. Do you know if there was an agreement made between
- 15 the parties?
- 16 A. A verbal agreement, I believe so.
- 17 Q. Were you ever told how much the pay would be?
- 18 A. No, sir.
- 19 Q. Did you ever have discussions with Mr. Manevich about
- 20 what his pay would be at the farm?
- 21 A. No, sir.
- 22 Q. Hourly wage?
- 23 A. No, sir.
- 24 Q. I'll ask you to look at a 302 dated on the bottom
- 25 8-8-2000.

Gatti - Cross

1 MR. TRAFICANT: 8-8-2000, your Honor, second
2 paragraph. You might find it. I'm sure you have a clean
3 copy. Can I use it?

4 THE COURT: You can use it. Let me get a
5 clean copy.

6 MR. TRAFICANT: Thank you, your Honor.

7 THE COURT: I don't have a clean copy.

8 MR. TRAFICANT: Do the prosecutors have a
9 clean copy?

10 THE COURT: Of Page 2?

11 MR. SMITH: No. Mine is not clean either,
12 your Honor. I'm sorry.

13 THE COURT: Wow. You're concerned about --

14 MR. TRAFICANT: Mine is.

15 THE COURT: Yeah. See about -- if that's the
16 area you're talking about. Is it? It looks to me like
17 it's the area you're talking about.

18 MR. TRAFICANT: Read from where it says
19 "Gatti contacted."

20 THE COURT: Yeah; is that right? Is that
21 what's underscored?

22 MR. TRAFICANT: Yes.

23 THE COURT: Fine. I'll keep this up here,
24 and you use that one. It doesn't have as many notes as
25 yours.

Gatti - Cross

1 MR. TRAFICANT: But he can't read it.

2 THE COURT: He can use it to refresh his
3 recollection. Don't read it out loud, just to yourself.

4 Q. I want you to read now just this second -- this
5 paragraph right here to yourself.

6 First of all, would you identify this for the jury on
7 the first page, what is it?

8 A. Federal Bureau of Investigation.

9 Q. And what is the date here?

10 A. 8-8-2000.

11 Q. And what agent interviewed you?

12 A. Peter Proach.

13 Q. And do you remember that interview?

14 A. Yes, I do.

15 Q. Where did it take place?

16 A. On the porch at my house.

17 Q. Okay.

18 And I want you to read Paragraph 2, starting with
19 Gatti advised. Read the whole thing to yourself. Then I
20 want you to give it back to me.

21 Does that refresh your memory?

22 A. Yes, sir.

23 THE COURT: Let's trade back, Congressman.
24 These are your notes.

25 MR. TRAFICANT: You mean yours was dirtier

Gatti - Cross

1 than mine?

2 THE COURT: You know, that's not the case.

3 This just has a few lines on it.

4 MR. TRAFICANT: Okay. Thank you, your Honor.

5 Q. Did you find out what the agreement was between

6 Mr. Bucheit and Mr. Manevich, per hourly wage?

7 A. From reading it, it said \$10 an hour.

8 Q. Do you know if Mr. Manevich, in fact, did the job?

9 A. Yes, he did.

10 Q. Were you aware of a job between Mr. Bucheit and

11 Mr. Passewitz?

12 A. Of the Bucheit Company you're speaking of?

13 Q. Yes.

14 A. Yes, sir.

15 Q. Do you know if, in fact, they that went to

16 arbitration?

17 A. Yes, it did.

18 Q. Do you know who won the arbitration?

19 A. Mr. Birkett.

20 Q. Now, you were asked about the boat?

21 A. Yes, sir.

22 Q. Was it a big boat?

23 A. It was a closed in cabinet.

24 Q. Did it have a -- could you drive it from up on top?

25 A. I don't recall.

Gatti - Cross

- 1 Q. You know how many engines it had?
- 2 A. I don't recall.
- 3 Q. Your skill was in wood, would you say?
- 4 A. Yes, sir.
- 5 Q. And your testimony was it needed woodwork?
- 6 A. Yes, sir.
- 7 Q. Now, you said -- and you brought up the term
- 8 estimate?
- 9 A. Yes, sir.
- 10 Q. Who asked for the estimate?
- 11 A. I believe it was you.
- 12 Q. Did I ask you for an estimate of how much it would
- 13 cost you to prepare my boat, Bob? Yes or no.
- 14 A. Not directly. You said to get an estimate, to see
- 15 how much it would cost to fix the boat.
- 16 Q. But did I, in fact, not ask you and Kurt who were
- 17 there to do that?
- 18 A. Yes, sir.
- 19 Q. Did I ask you to do anything free on that boat?
- 20 A. No, sir.
- 21 Q. Now, wasn't it a fact at the time you were working
- 22 down in D.C.?
- 23 A. Yes, sir.
- 24 Q. Did you do carpentry work?
- 25 A. Yes, sir.

Gatti - Cross

1 Q. Would that not have been a pain in the butt for you
2 to do that job?

3 A. It was out of my classification.

4 Q. It would have been a pretty tough job, wouldn't it?

5 A. Yes, sir.

6 Q. You would have had to be a skilled boatsman, a
7 skilled repairman who did wooden boats. Is that a correct
8 statement?

9 A. Yes, sir.

10 Q. Could any layman who did not have skilled knowledge
11 of boat building repair that boat?

12 A. I do not believe so, sir.

13 Q. You consider yourself to be a skilled carpenter?

14 A. Yes, sir.

15 Q. Could you build a building?

16 A. Yes, sir.

17 Q. Could you resurface that desk?

18 A. Yes, sir.

19 Q. And you couldn't do the job that was needed on that
20 boat, right?

21 A. No, sir.

22 Q. Were you afraid of me?

23 A. No, sir.

24 Q. Was Mr. Bucheit afraid of me?

25 A. You'd have to ask Mr. Bucheit.

Gatti - Cross

1 Q. That's a good question. Coming from my district, do

2 people fear me?

3 A. You have to ask the people, sir.

4 Q. To the best of your knowledge, am I feared back home?

5 A. Not from what I've heard, sir.

6 Q. Am I liked back home?

7 A. From what I've heard, yes.

8 Q. Was I a touchy-feely guy with you?

9 A. Just a normal guy thing. I mean, you gave me a pat
10 on the back, shook my hand, how you doing, stuff like that,
11 normal, nothing out of the ordinary.

12 Q. Did I ever touch you on parts of your body to see if
13 maybe you were wearing a body recorder?

14 A. I don't think so, sir.

15 Q. When was the first time you met with the Government?

16 Well, I believe you already said that it was August 8 of
17 2000, right?

18 A. Yes, sir.

19 Q. Did you notice if there was a recorder?

20 A. Recorder where, sir?

21 Q. Tape recorder in view?

22 A. No, sir.

23 Q. Did they ask you about the Saudi Arabia deal?

24 A. Yes, they did.

25 Q. Did you ever work overseas for Mr. Bucheit?

Gatti - Cross

1 A. No, sir.

2 Q. Did you know that he had extensive overseas
3 investments?

4 MR. SMITH: Objection. Personal knowledge.

5 THE COURT: Did you have personal knowledge?

6 BY MR. TRAFICANT:

7 Q. Did you have personal knowledge that he had done work
8 overseas?

9 A. Yes, sir.

10 Q. Did I ever ask you to come to my farm?

11 A. Not that I can remember, sir.

12 Q. Could you have repaired my barns if I needed it?

13 A. Yes, sir.

14 Q. Were you very close friends with Kurt Bucheit?

15 A. Yes, I was, or yes, I am.

16 Q. Are you still?

17 A. Yes, sir.

18 Q. Did the FBI ask you if anybody else other than
19 Manevich did work at the farm?

20 A. I believe they did.

21 Q. Were you truthful when you talked with the FBI?

22 A. Yes, I was.

23 Q. Were you truthful when you testified before the Grand
24 Jury?

25 A. Yes, I was.

Gatti - Cross

1 Q. Now, did the Government talk to you before you went
2 in to talk to the Grand Jury?

3 A. Mr. Morford just explained what was going on when you
4 went into the Grand Jury. You're going sit there. You're
5 going to be sworn in, and I'm going ask you some questions.
6 You're going to answer them.

7 Q. Did he tell you what those questions were?

8 A. No, sir.

9 Q. Could a plumber have fixed the woodwork on my boat?

10 A. I don't think so, sir.

11 Q. Could a social worker have performed work on my boat?

12 MR. SMITH: I'll object to that, your Honor.

13 THE COURT: The objection is well taken
14 unless he has some reason to know a particular social
15 worker who could or couldn't have done it.

16 BY MR. TRAFICANT:

17 Q. Could an office worker with no carpenter skills have
18 done work on that boat?

19 A. I don't believe so, sir.

20 MR. TRAFICANT: No further questions.

21 THE COURT: Okay.

22 MR. SMITH: No redirect.

23 THE COURT: Thank you, sir. You're excused.

24 MR. SMITH: The Government calls Thomas
25 Passewitz.

Passewitz - Direct/Smith

1 THE COURT: Would you raise your right hand,
2 please?

3 THOMAS R. PASSEWITZ
4 of lawful age, a witness called by the Government,
5 being first duly sworn, was examined
6 and testified as follows:

7 DIRECT EXAMINATION OF THOMAS R. PASSEWITZ

8 BY MR. SMITH:

9 Q. Sir, could you please state your full name, and spell
10 your last name for the court reporter?

11 A. Thomas Ray Passewitz, P-A-S-S-E-W-I-T-Z.

12 Q. What do you do for a living, sir?

13 A. I'm an electrician.

14 Q. And where do you work now?

15 A. Now, I'm presently employed by IBEW, Local 64 in
16 Youngstown.

17 Q. And how long have you been an electrician?

18 A. About 26 years.

19 Q. Do you have any kind of certification or training as
20 an electrician?

21 A. Yes. I'm classified as a journey man.

22 Q. From 1978 to 1994, where did you work?

23 A. I was employed by Aey Electric in Youngstown.

24 Q. For the court reporter's benefit, could you spell
25 Aey?

Passewitz - Direct/Smith

1 A. A-E-Y.

2 Q. And what was the nature of the business in which Aey
3 Electric was located or engaged?

4 A. They are a residential, commercial, industrial
5 electrical contractor.

6 Q. Who were the proprietors of Aey Electric?

7 A. At the time of my employment was Mr. Richard Aey.

8 Q. During your employment with Aey Electric, were you
9 assigned to do work on a farm located at Route 165 in
10 Greenford?

11 A. Yes, I was.

12 Q. Who directed you to go out to that farm to do that
13 work?

14 A. Mr. Aey.

15 Q. Did you ever meet the person who occupied the
16 premises?

17 A. It would be more specific. There was a housekeeper
18 there, Sandra Ferrante. I met the Congressman several
19 times there, also.

20 Q. About what year did this occur that you went out to
21 do this work?

22 A. Summer and fall of 1993.

23 Q. Approximately how many days did you spend working out
24 at the farm?

25 A. I can't be certain, but I spent quite a few days out

Passewitz - Direct/Smith

1 there.

2 Q. At what hourly rate was your time billed out during
3 1993?

4 A. I believe the company's rate at that time was \$35 per
5 hour, plus material.

6 Q. And did you work consecutive days at the farm, or was
7 your time spread out over a period?

8 A. Depending on how the progress of the job went,
9 sometimes it was consecutive days. Sometimes it would be a
10 break between me showing up again on the job location,
11 depending how the progress went.

12 Q. All right.

13 And what job was being done?

14 A. I was mainly there for the addition of a two-story on
15 the back side of the house.

16 Q. And would you describe for the jury what work that
17 you did to the addition on the back of the house?

18 A. Well, as an electrician, I was there to install
19 convenience outlets, switching, and any specific power
20 requirements needed for the addition.

21 Q. Did you meet any of the workers who were building the
22 addition?

23 A. Yes. I met fellow craftsmen, you know, carpenters,
24 dry wallers, anybody that was on the job site as I was
25 there.

Passewitz - Direct/Smith

1 Q. What was the approximate value of the electrical work
2 that you did out at that farm over the entire course of
3 your work there?

4 A. I have no idea.

5 Q. Do you -- can you give any -- even a ball park
6 estimate, roughly?

7 A. Several thousand at least.

8 Q. Did you personally have any responsibility for
9 billing the customer?

10 A. No, I did not.

11 Q. Who did the billing at Aey Electric company?

12 A. Mr. Richard Aey.

13 Q. Did you ever discuss any of the work that you were
14 doing with the Congressman as you were doing it?

15 A. Normal communication between a customer and a
16 tradesman. You know what location you would want your
17 outlets, what location you would want your switches, any
18 particular type of fixture you would want installed, the
19 normal talk you would have with a customer.

20 Q. How were you paid for your work?

21 A. I received a weekly check.

22 Q. From?

23 A. At that time Aey Electric.

24 Q. Did Congressman Traficant pay you any money in
25 connection with your work?

Passewitz - Cross

1 A. No.

2 Q. Do you know -- do you have any personal knowledge as
3 to what, if any, financial arrangements Aey Electric
4 Company had to be reimbursed for your services out at the
5 farm?

6 A. I have no knowledge.

7 MR. SMITH: May I have a moment, your Honor?

8 BY MR. SMITH:

9 Q. Did the size of the project from an electrical
10 viewpoint ever change as time went on, or was it the same
11 the whole time?

12 A. Besides wiring the addition, I also had a little bit
13 of rewiring in the main -- main structure of the house, the
14 cellar, some of the garage.

15 Q. Did you work on any structure other than the house
16 and the addition?

17 A. Just the attached garage.

18 Q. All right.

19 MR. SMITH: Very well. Thank you. No
20 further questions.

21 THE COURT: Congressman.

22 CROSS-EXAMINATION OF THOMAS PASSEWITZ

23 BY MR. TRAFICANT:

24 Q. Good morning, Tom.

25 A. Good morning, Congressman.

Passewitz - Cross

- 1 Q. People back home fear me?
- 2 A. I'm sure they have mixed emotions about it.
- 3 Q. Do you fear me?
- 4 A. I don't believe I'm here to express an opinion.
- 5 Q. Did I ever threaten you?
- 6 A. Excuse me?
- 7 Q. Did I ever threaten you?
- 8 A. No, you have not.
- 9 Q. Did you ever see me threaten anybody?
- 10 A. I have not personally seen it, no.
- 11 Q. Now, you said you met fellow workers out there,
- 12 right?
- 13 A. Correct.
- 14 Q. Craftsmen?
- 15 A. Correct.
- 16 Q. In the house?
- 17 A. On your addition.
- 18 Q. On the addition.
- 19 Now, when you got there, was the addition about done?
- 20 A. No. It was just in the beginning process.
- 21 Q. And you did the wiring?
- 22 A. Correct.
- 23 Q. Did you put up any light fixtures?
- 24 A. Towards the end of the job, yes.
- 25 Q. Which ones?

Passewitz - Cross

1 A. I believe on the first floor of the addition, you
2 have a ceiling fan, and I'm not sure what you had on the
3 second floor of the addition.

4 Q. A ceiling fan?

5 A. Yes, because that -- one time we were discussing the
6 location of the switch board. If I recall, the switch is
7 located between the two bay windows you have.

8 Q. Now, when Mr. Aey sent you on a job, did you bill the
9 customer, or did Mr. Aey bill the customer?

10 A. At the end of each day I was there, I would turn in a
11 time sheet, stating the number of hours and brief job
12 description of that day to Mr. Aey.

13 Q. Would you give that to the customer?

14 A. No.

15 Q. Did you ever give me any of that?

16 A. No. That is company paperwork.

17 Q. Now, you say you're a journeyman now?

18 A. Yes.

19 Q. And you're -- you're employed by local?

20 A. 64.

21 Q. And that is a labor union?

22 A. Yes, it is.

23 Q. And so isn't it a fact they assign you to the job
24 when someone needs it?

25 A. Yes.

Passewitz - Cross

1 Q. So are there many times when you're unemployed?

2 A. There are periods of time I am unemployed, yes.

3 Q. Now, you said when you worked on the Traficant farm,
4 you got paid \$35 an hour?

5 A. No. That was what the company charges. That was the
6 service rate at that time.

7 Q. I see.

8 How much did you get paid per hour for that job?

9 A. I believe my hourly rate at that time was either \$15
10 or \$16 per hour.

11 Q. Did Mr. Aey ever tell you this was a favor for
12 Mr. Traficant?

13 A. No, he did not.

14 Q. Did you ever discuss it with him?

15 A. It was not my place to discuss billing with the
16 company. I was there to perform a certain task, and that
17 was it.

18 Q. Now, when you went to any property, Mr. Jones'
19 property, assigned by Mr. Aeyd, would you inquire as to the
20 agreement between Mr. Jones and Mr. Aey?

21 A. Well, if I was going to Mr. Jones' house, Mr. Jones
22 would be billed two ways: One way would be already have a
23 written contract, which Mr. Aey would have went out and
24 estimated the work and wrote him up a proposal, or I would
25 have went to Mr. Jones' house and did what they call T and

Passewitz - Cross

1 M, time and material.

2 At that time, Mr. Jones would be billed an hourly
3 rate of \$35 per hour plus labor and material I would use.

4 Q. And was this a \$35 per hour job as understood it?

5 A. I have no -- I wouldn't know what arrangements were
6 made, whether it was a proposal or whether it was a time
7 and material.

8 Q. How many times did you meet with me out there?

9 A. I believe three times.

10 Q. Did we greet each other?

11 A. Yeah. We -- we greeted each other, yes.

12 Q. How would we greet each other?

13 A. How are you doing, Tom? I'd say fine, Congressman,
14 how about yourself?

15 Q. Did we ever shake hands?

16 A. I believe initially we did.

17 Q. Now, when Mr. Aey would send you out to a customer,
18 would the customer pay you, or would Mr. Aey pay you?

19 A. Sometimes the customer would pay me. If the customer
20 wished to pay me instead of being billed, I would either
21 call the shop and ask him what the amount was on the
22 proposal, or I would call the shop and relay whatever
23 material plus my time, and I would get a price back, and I
24 would convey that to the customer and wait for him to pay
25 or her to pay.

Passewitz - Cross

1 Q. And you estimated the amount of work done at the
2 Traficant farm at several thousand dollars?

3 A. I'm only estimating by what their hourly rate was and
4 the time I spent there. I have no -- I have no exact
5 figure what it would be.

6 Q. About \$35 an hour, three hours would be \$100, right?

7 A. Correct.

8 Q. And you worked off and on depending upon the process
9 and the project?

10 A. Correct.

11 Q. Did Sandy ever ask you to do anything?

12 A. I cannot recall.

13 Q. When you were there, did you always see Sandy?

14 A. Majority of the time I was there.

15 Q. When you showed up, what was the usual time that you
16 showed up in the morning?

17 A. Well, I would start for work at 8:00. By the time I
18 would travel from west side of Youngstown to the farm in
19 Greenford, I would say a good half hour travel time, 8:30
20 or so.

21 Q. Say 8:30 approximately?

22 A. Approximately.

23 Q. Would you know my father if my father walked in that
24 door?

25 A. I would not.

Passewitz - Cross

1 Q. Were you ever told who built the deck?

2 A. I understand Bucheit Construction was doing the
3 general contractor on it.

4 Q. The deck itself and all the additions?

5 A. Correct.

6 Q. And who told you that?

7 A. Mr. Aey.

8 Q. Did you ever ask the carpenters who built the deck?

9 A. Well, yeah. We would talk, and I would ask who they
10 were employed by and, they would tell me by Bucheit
11 Construction, plus I also believe on some of the tools
12 might have been labeled Bucheit Construction.

13 Q. Some of the --

14 A. The tools, ladders, saws.

15 Q. Did Mr. Aey tell you that Mr. Bucheit and he had an
16 agreement?

17 A. No. Mr. Aey did not ever tell me Mr. Bucheit and Aey
18 had an agreement. Mr. Aey did tell me that Mr. Bucheit
19 called him up and asked for him to send an electrician out.

20 Q. And that's -- that's how you got the job that got you
21 on the witness stand today, right?

22 A. Yes.

23 Q. Now, you said you went and worked in the basement.
24 Did you have to put in some breakers?

25 A. Yes, I did.

Passewitz - Cross

1 Q. Why?

2 A. As I recall, I replaced the whole breaker panel
3 because the existing one was quite overloaded, and then you
4 were adding the addition to it, and we thought it would be
5 wise to change and put a larger breaker panel in.

6 Q. And did you say I asked you to do that?

7 A. I can't recall how it came about it being replaced.
8 Maybe it was a recommendation to you. I'm not sure.

9 Q. Would you say the wiring in that place was unsafe?

10 A. I'd say the wiring was typical for an old farmhouse,
11 the way it was. There were certain sections of it were
12 very questionable, it being unsafe. It's how you want to
13 classify unsafe. If we have a fire tomorrow, possibly. If
14 not, who knows, could last another 50 years.

15 Q. Was the basement very fancy?

16 A. No, it was quite cluttered.

17 Q. I didn't ask you if it was cluttered or dirty. I
18 asked if it was fancy.

19 A. No.

20 Q. Was the basement door secure?

21 A. I know you had -- you had an entrance to the basement
22 from the rear ground level, but I can't recall the type of
23 door, whether it was wooden, steel, secured, or not.

24 Q. Is that where you entered the basement?

25 A. Majority of the time.

Passewitz - Cross

1 Q. Did I ever grab you or hug you?

2 A. No, I don't believe so. You did shake my hand once.

3 Q. Did you consider the times that we were together to
4 be friendly?

5 A. Yes.

6 Q. And did Mr. Aey pay you for the job?

7 A. I got paid a weekly salary, whether your job lasted
8 that entire week or I was on various jobs through the
9 course that have week, I received a weekly paycheck.

10 Q. Would your paycheck itemize what jobs you did and how
11 much was for each job?

12 A. No. My paycheck was not itemized.

13 Q. Was there any payment in cash to you?

14 A. I don't believe I ever received a payment.

15 Q. No. I mean, was there any payment in cash?

16 A. From Mr. Aey?

17 Q. Yes.

18 A. No.

19 Q. When you left, were you still concerned about the
20 wiring problems at the house?

21 A. When I finished the job, I was quite certain the wire
22 was in satisfactory order.

23 Q. Yours or the house?

24 A. I was quite certain the house wiring was -- met code
25 at that time.

Passewitz - Cross

1 Q. Where did the FBI meet with you?

2 A. Initial visit of when the FBI was in my residence --

3 Q. And what street was that again?

4 A. Birch Trail, Austintown.

5 Q. Birch?

6 A. Birch Trail, Austintown.

7 Q. How many came to see you?

8 A. Well, when I -- the initial visit, there was two
9 agents. I wasn't home at the time, so when they came back,
10 there was only one.

11 Q. Did they call you before they come?

12 A. According to my wife, yes, they did.

13 Q. On the first visit, did they call your wife and tell
14 her that the FBI was coming out?

15 A. I don't believe so.

16 Q. In other words, they made a cold visit to your house.
17 Would that be a fair statement?

18 A. That would be a fair statement.

19 Q. Now, when they found out you weren't home, did you
20 have conversations with your wife?

21 A. I believe they asked my wife where I was, and she
22 replied that I was at work and what time I would be coming
23 home.

24 Q. You know what time they visited your house that day
25 when you weren't home?

Passewitz - Cross

- 1 A. I can't be certain, but I would say late afternoon.
- 2 Q. How late?
- 3 A. 3:00, 4:00.
- 4 Q. What time did you quit work?
- 5 A. I normally quit work at 3:30, but I might have been
- 6 working over that day.
- 7 Q. Do you know if your wife told them that?
- 8 A. No. I can't -- I have no -- I have no idea what the
- 9 conversation was between my wife and the agents.
- 10 Q. How long after that was the second visit?
- 11 A. I believe the next day.
- 12 Q. Where did that take place?
- 13 A. At my residence, also.
- 14 Q. Did the agent call you in advance?
- 15 A. I'm not sure. I believe he did, but I can't be
- 16 certain.
- 17 Q. How many were there?
- 18 A. One.
- 19 Q. Did you know if he recorded your conversations?
- 20 A. At the time, I'm not really sure. I'm sure -- yeah,
- 21 I know he made notes.
- 22 Q. Did he show you those notes?
- 23 A. Not at that time, no.
- 24 Q. Did you ask to see the notes?
- 25 A. No, I did not.

Passewitz - Cross

1 Q. Was your wife present?

2 A. No, she wasn't.

3 Q. What time of the day was it?

4 A. I would have to say afternoon again, but I can't be
5 certain the exact hour.

6 Q. Roughly.

7 A. Between 2:00 and 4:00.

8 Q. Didn't you quit work at 3:30?

9 A. Yes, I did, but again, I am not certain what I was
10 doing that day. I might have been home early. I might
11 have been home late. All I know is it was late afternoon.

12 Q. Was he waiting on you, or did you call him?

13 A. I was home, and the FBI agent came. I wasn't waiting
14 particularly for him.

15 Q. Who were you waiting for?

16 A. I just happened to be home.

17 Q. How soon after you got home did the agent show up?

18 A. I can't recall.

19 Q. Shortly thereafter or a couple hours later?

20 A. I would say shortly thereafter.

21 Q. Now, when you met -- when they came the first time,
22 did your wife tell them where the job site was?

23 A. I don't believe so because my job sites vary.
24 Sometimes I don't know where I'm working until that
25 particular morning.

Passewitz - Cross

1 Q. Did you have any knowledge of Dave's bookkeeping?

2 A. No, I do not.

3 Q. Do you know if Aey ever billed me?

4 A. No, I do not.

5 THE COURT: Congressman, it's a quarter of a
6 11:00. We need to give the jury a break. Is this a good
7 time?

8 MR. TRAFICANT: I'm sorry.

9 THE COURT: That's okay.

10 MR. TRAFICANT: I'll suspend for now. Thank
11 you.

12 THE COURT: Thank you very much. We'll have
13 a break. It'll be a 20-minute break. Sir, you'll have to
14 come back. Okay?

15 (Proceedings in the absence of the jury:)

16 THE COURT: I'd like to handle at least two
17 things. You asked a question, Congressman, about whether
18 or not you could recall Government witnesses whenever --
19 ask the question again, and I'll hear it.

20 MR. TRAFICANT: Am I allowed to recall
21 Government witnesses?

22 THE COURT: Well, you can call a witness in
23 your own case. Once a witness is released, though, here,
24 you can't -- you can't recall that witness for
25 cross-examination in the Government's case, but you can

1 call a witness. You can call witnesses in your own case.

2 MR. TRAFICANT: I want to let it be known to
3 the court in the record that I've had a difficult time
4 subpoenaing Mr. Tony Bucci.

5 Now, the Government has attempted to cooperate and
6 gave me the name of the attorney. I left the information I
7 wanted with the attorney for some time. I have yet to get
8 a return call. It is my intention that I have called
9 several times, left several messages, and I want to know if
10 I can subpoena Mr. Bucci through his attorney.

11 THE COURT: I'm sorry. We need to let the
12 jurors out who are going to smoke. We'll just take a
13 moment.

14 (Pause.)

15 MR. TRAFICANT: I --

16 THE COURT: You want to respond?

17 MR. TRAFICANT: I would like to continue,
18 your Honor, and explain further.

19 THE COURT: Okay.

20 MR. TRAFICANT: Since the witness would not
21 give his address because he feared I might hurt him,
22 because of his so-called murder of an associate of mine
23 that you've heard about, would it be appropriate to
24 subpoena his client through the attorney?

25 THE COURT: Just subpoena the person.

1 MR. TRAFICANT: I can't find him. He gave no
2 address. The Court required no address.

3 MR. MORFORD: Your Honor, it's my
4 understanding and in my conversations earlier with
5 Mr. Rotatori that he wanted us to go through him. We
6 served a subpoena on him on behalf of his client, and I
7 don't know what attempts have been made or not been made
8 by Congressman Traficant. He said he called him, and
9 Mr. Rotatori hasn't returned his call. He can send him a
10 letter. He can send him a subpoena; ask him to do
11 something. I don't know.

12 MR. TRAFICANT: Did you subpoena Mr. Bucci,
13 or did you subpoena Mr. Bucci through Mr. Rotatori?

14 MR. MORFORD: I believe we subpoenaed
15 Mr. Bucci through Mr. Rotatori by sending the subpoena,
16 which is the usual way you do it when someone is
17 represented.

18 THE COURT: Yeah.

19 MR. TRAFICANT: Was the subpoena served on
20 Rotatori or on Bucci?

21 MR. MORFORD: My understanding is -- I didn't
22 serve it, but my understanding we went through
23 Mr. Rotatori, that's my understanding.

24 THE COURT: Whether someone has a lawyer and
25 they're representing him, I guess -- I don't know -- I

1 think Robert Rotatori -- is that the Rotatori you're
2 talking about?

3 MR. TRAFICANT: That sounds familiar.

4 THE COURT: Okay. Well, then, you can follow
5 the same process, but I can't do the subpoena for you.
6 You're just going to have to --

7 MR. TRAFICANT: I know that. What I was
8 trying to ascertain from the Prosecution since they were
9 successful and I'm not able to meet Mr. Bucci, if, in fact,
10 they served the subpoena for Mr. Bucci on Mr. Rotatori or
11 if it was served -- if they could notify the Court directly
12 on Mr. Bucci pursuant to the address given to them by
13 Mr. Rotatori.

14 THE COURT: Why don't you explain exactly
15 what the address situation was? Was it in care of
16 Rotatori, whatever worked for you. I think if you would
17 explain it to the Congressman, you don't have to do it on
18 the record.

19 MR. TRAFICANT: Can I see a copy of the
20 subpoena?

21 MR. MORFORD: First of all, I don't have a
22 copy of the subpoena here.

23 Second of all, we've subpoenaed -- I don't know, 60
24 or so witnesses. My understanding is we went through
25 Mr. Rotatori, and Mr. Rotatori accepted the subpoena on

7 THE COURT: But it's Bucci you're
8 subpoenaing. You just do it through his attorney.

10 THE COURT: I don't think a response is
11 needed.

14 THE COURT: Please, put your response on the
15 record. Go ahead.

19 THE COURT: It's not their job to teach you.

23 THE COURT: Congressman, subpoena him.

1 you.

2 MR. TRAFICANT: I'm going to do that
3 expeditiously.

4 THE COURT: Okay. Let's move --

5 MR. TRAFICANT: There are other issues.

6 THE COURT: Yes, there are. You've been
7 asking some questions of this witness who we are still
8 holding here, Ms. Bliton. I think that's how you say her
9 name.

10 MR. TRAFICANT: Yes.

11 THE COURT: And there was an objection.
12 These are questions regarding the speech or debate clause,
13 and so I didn't rule on one objection. I reserved that
14 ruling until I could inquire of you, not in front of the
15 jury, but in their absence. What was the purpose behind
16 your asking the questions, so I know how to rule on the
17 objection that was posed?

18 MR. TRAFICANT: My question was very clear,
19 that she was made known that the General Counsel was, in
20 fact, determining which documents were subject to, in fact,
21 the speech and debate clause, and I believe I am looking
22 now for the specific page and number, where she had stated
23 that and where the 302 has, in fact, documented it.

24 THE COURT: But, were you trying -- what were
25 you trying to do? What were you trying to impeach her?

1 MR. TRAFICANT: No. I wasn't trying to
2 impeach her.

3 THE COURT: Okay.

4 MR. TRAFICANT: I was trying to determine and
5 recollect and refresh her memory, that this woman had
6 testified that she had some understanding of speech and
7 debate clause, and that there was contact made, and that it
8 was pointed out to Bliton that -- I have the file. I
9 showed it to you, and I'll read it to you.

10 THE COURT: Well, I just needed to know the
11 purpose of your question.

12 MR. TRAFICANT: The purpose of it was -- was
13 that she did get information that the General Counsel had
14 the documents and was going to determine the status of the
15 speech and debate issue.

16 Now, the purpose of this, for the Prosecution here
17 right now, when was the rule on speech and debate ordered,
18 and when did she turn over documents?

19 THE COURT: Well, I don't know what that's
20 all about, but we're trying to talk about a witness we have
21 kept here so that we can determine whether or not there was
22 or was not a valid objection to a question that you put to
23 her, and I'm going to go back and read you the question if
24 you want me to.

25 MR. TRAFICANT: You don't need to do that.

1 THE COURT: But, I need to know from you why
2 you're asking the question so I can rule on it properly.

3 MR. TRAFICANT: All right. Here's the reason
4 I'm asking the question.

5 At some point, there was a motion that was granted in
6 an order from this Court to have a Magistrate look at all
7 the documents.

8 THE COURT: Well, she doesn't know anything
9 about it.

10 MR. TRAFICANT: I am not talking to her about
11 that. I'm talking to you about what happened here. She
12 turned over documents that were letters from the
13 Congressman to the vice-president.

14 THE COURT: All right.

15 MR. TRAFICANT: What I want to know is if
16 those documents were turned over before the Court ruled
17 that they were allowed to be turned over.

18 THE COURT: So you're trying to find out from
19 this witness--

20 MR. TRAFICANT: Trying to find out just
21 exactly when, in fact, she checked with the General
22 Counsel.

23 THE COURT: She said she did call the General
24 Counsel's office.

25 MR. TRAFICANT: But, she did not say that the

1 General Counsel was told that they were ruling on the
2 documents, and they were the sole rulers on the documents
3 at that time. You can release her, but here's the issue.
4 If this -- here's what I'm saying to the court for the
5 record. If this woman voluntarily turned over, why would
6 she have called? And if she turned over a letter from the
7 Congressman to the vice-president before the Court had
8 ordered or made a final decision on the speech and debate
9 clause, then in my opinion, the Court is in violation of
10 the speech and debate clause.

11 THE COURT: Okay. Well, that's not an issue
12 for the jury. You have that issue up in the Sixth Circuit,
13 I think, on whether or not the Court is correct on the
14 speech or debate clause.

15 MR. TRAFICANT: Naturally, but I was trying
16 to --

17 THE COURT: Right. But, I mean this jury is
18 here. They're the ones listening to testimony. I need to
19 know whether or not the objection that they made to this
20 line of questioning -- I can go back and read it so you
21 know what it is --

22 MR. TRAFICANT: Yes.

23 THE COURT: -- is appropriate or not.
24 Otherwise, we'll call her back on the stand after the
25 break, what's left of it.

1 MR. TRAFICANT: Let's find first the language
2 and see if we want to have her back, and then I'll leave it
3 up to you.

4 THE COURT: Well, I --

5 MR. TRAFICANT: I told you exactly what I'm
6 looking at.

7 THE COURT: Yeah.

8 MR. TRAFICANT: I expect I have as much
9 chance on appeal as a minnow in a bass contest, and that's
10 why I'm doing this for the record. I want to know exactly
11 when and, in fact, what she knew relative to the -- and I'm
12 finding it and looking for it.

13 THE COURT: All right. Bliton stated she had
14 copies of -- Page 6.

15 MR. TRAFICANT: Now you're reading out of the
16 report.

17 THE COURT: I'm reading the transcript so I
18 can see the question you asked.

19 MR. TRAFICANT: Okay. While you're doing
20 that, you want me to cease and desist?

21 THE COURT: Yes, because I can't do two
22 things at once. Sorry.

23 MR. TRAFICANT: I can't either. I'm sorry.

24 THE COURT: Well, that's all right. Okay.
25 Okay.

1 MR. TRAFICANT: Now, I'm turning to Page 6 of
2 the 302, signed by Agents DeVault and White, evidently of
3 D.C. or Virginia. I'm looking at the middle of page 6
4 where it starts "Bliton then stated she understood the
5 House counsel's office for the House of Representatives was
6 reviewing all the Bucheit related files from Congressman
7 Traficant's office. She further stated she had
8 telephonically contacted Congressman Traficant's office
9 after arranging an interview with the FBI. In relation to
10 whether the -- she should turn over copies of the Bucheit
11 documentation she had in her possession, Bliton advised at
12 that time she was advised the House counsel's office was
13 not going to give any documentation regarding legislative
14 matters to the FBI in response to requests for production
15 of same.

16 "When questioned as to whether the documentation was
17 to be withheld under speech and debate, Bliton stated she
18 was not sure the specific term was used but reiterated she
19 heard documentation may be withheld in relation to
20 legislative matters."

21 THE COURT: Okay.

22 MR. TRAFICANT: When questioned as to who in
23 Congressman Traficant's office provided her this
24 information, she said Paul Marccone told her that. Now, at
25 a later meeting Marccone said go ahead and give it to them.

1 Now, it is clear that this witness had knowledge of
2 not only a Government entity, that it was the General
3 Counsel of the House of Representatives, this thing was
4 completed 18 months ago. Now, I am not trying to impeach
5 her. You don't need to bring her back, but here's the
6 purpose of my inquiry and where I was going.

7 THE COURT: Okay.

8 MR. TRAFICANT: I want to know -- at the end
9 I don't know -- if the Magistrate that you ordered to look
10 at it and if you, in fact, decided on the speech and debate
11 material before it was turned over to the Government since
12 the Government asked for it on 6-22-00.

13 THE COURT: Okay.

14 If you look at the docket in your case here, you'll
15 be able to know exactly when I made the referral to the
16 Magistrate, and the docket is available to you.

17 You'll also be able to know when we ordered various
18 things. It was in the fall of this year, I think, but to
19 make sure, we should look at the docket, and I think I can
20 give you a copy of the docket.

21 MR. TRAFICANT: Could you please do that?

22 THE COURT: Yeah, I think.

23 MR. TRAFICANT: It was in the fall of 2001?

24 THE COURT: Let's look.

25 MR. KALL: Your Honor, may I respond?

1 THE COURT: Just a minute. I want to read
2 the question you asked the witness to which they posed an
3 objection so we have that. Okay.

4 MR. TRAFICANT: I withdraw the question.

5 THE COURT: So you don't want me --

6 MR. TRAFICANT: Go ahead and rule on it --

7 THE COURT: Okay.

8 MR. TRAFICANT: -- for the record.

9 THE COURT: All right. It says "Did anyone
10 ever tell you the documentation -- documents may be
11 withheld subject to the speech and debate clause?"

12 "Mr. Kall: Objection.

13 "Court: Sustained."

14 Then you asked, "Did you ever have conversations with
15 the FBI regarding" --

16 And Mr. Kall said: Objection.

17 So I said: "Okay. We'll deal with this at the next
18 break."

19 So now we're dealing with it. And --

20 MR. TRAFICANT: Are you going to sustain your
21 objection or overrule it?

22 THE COURT: Hold on a minute.

23 MR. KALL: Your Honor, I objected to this
24 question and the line of questions for several reasons.
25 Number one, it's not a matter relevant to the jury. The

1 issue whether something is a legislative act protected by
2 the speech and debate clause, as you know, is an issue for
3 the Court to determine, and the Court has determined that.
4 Well, I believe that question was improper.

5 Number two, the question of whether Ms. Bliton may
6 have given documents to the FBI is also irrelevant. The
7 speech or debate clause privilege is not one of disclosure.
8 It's one of use. The documents may not be used against
9 Congressman Traficant, but the fact that certain documents
10 may have been disclosed is nothing that violates that
11 privilege.

12 Finally, these are all documents shown. He did not
13 object to these documents, the letters to the
14 vice-president, at the time they were used with the
15 witness, and I believe he did not even object to those in
16 his motion to suppress based on the speech or debate clause
17 privilege. He's attempting to raise a legal issue in front
18 of the jury that is improper.

19 MR. TRAFICANT: Now, let me respond.

20 THE COURT: Okay.

21 MR. TRAFICANT: I was attempting to elicit
22 from the witness the exact date she turned over documents.
23 I certainly have admitted these joint exhibits, but they
24 are in violation of the speech and debate clause. Once
25 they were ruled as being open, why should I look defensive?

1 I have nothing to be ashamed of doing, but you already
2 ruled they could be used. Their argument is moot.

3 My question is: Did she give documents that were
4 clearly subject to the speech and debate clause before the
5 Court had ordered that such documents were, in fact,
6 allowable under the speech and debate clause? This is a
7 constitutional issue now that I raise.

8 THE COURT: Right, and not something for this
9 jury.

10 MR. TRAFICANT: No. It's not, but I had to
11 determine the dates.

12 THE COURT: Okay.

13 MR. KALL: Your Honor, Congressman Traficant
14 is, I believe, trying to have it both ways, trying to
15 object to the admission of documents and stipulating to
16 them as joint exhibits. It's our position he should pick
17 one or the other.

18 MR. TRAFICANT: Now, let me respond.

19 Did the Court rule that those exhibits were eligible?
20 Yes or no.

21 THE COURT: Which exhibits?

22 MR. TRAFICANT: The letters to Vice-President
23 Al Gore.

24 THE COURT: I don't know what's been admitted
25 and what hasn't in all these documents we looked at. You

1 asked it be a joint exhibit.

2 MR. TRAFICANT: Yes. Did you order, though,
3 that they were allowed to be used, and did you rule on the
4 speech and debate clause?

5 THE COURT: Well, I did rule.

6 MR. TRAFICANT: When did you rule on the --

7 THE COURT: Before we started this trial.

8 MR. TRAFICANT: Okay. Had you -- these were
9 done before you ordered --

10 THE COURT: Okay. Why don't I give you a
11 copy of the docket and take a break because you can read it
12 like everyone else, and it'll tell you exactly when I
13 referred it to the Magistrate Judge and when I ruled on it.
14 Okay?

15 MR. TRAFICANT: Fine. That's all I was
16 doing. You can release the witness.

17 THE COURT: Okay. We'll release the witness,
18 Congressman. That'll be fine. Thank you very much. We
19 have --

20 MR. TRAFICANT: Can I have some time to look
21 at this, please?

22 THE COURT: Okay. We'll take a five-minute
23 break. Thanks.

24 MR. TRAFICANT: Five minutes?

25 THE COURT: Sir, the jury -- the jury is

Passewitz - Cross

1 working, too. Okay? Five minutes.

2 (Thereupon, a recess was taken.)

3 THE COURT: Sir, you're still under oath. Be
4 seated, please.

5 BY MR. TRAFICANT:

6 Q. How are you doing, Tom?

7 A. I'm doing fine.

8 Q. Were you paid minimum wages on the job?

9 A. Excuse me.

10 Q. Were you paid union wages for that job?

11 A. At the time Aey Electric was not a union contractor.
12 So I can't be certain if I was paid per billing wage or
13 not.

14 Q. Who handed you your paycheck?

15 A. Paychecks were on the desk, and they came in every
16 Wednesday. They were not personally handed to you. They
17 were in a pile, and you would pick the paycheck up.

18 Q. The paychecks did memorialize the respective work
19 that you had done that week. Is that a fact?

20 A. That's a fact.

21 Q. Did the company ever send out an inspector to see if
22 you were on the job?

23 A. Not on your job. Occasionally, Mr. Wray would come
24 out just to make sure everything was going fine or if you
25 had any particular questions on what would be done or how

Passewitz - Cross

1 to do it. I believe on your job, on the Greenford farm,
2 no.

3 Q. So no one ever come and check that you were there
4 from 8:30 to 4:30. Is that your testimony?

5 A. No one personally ever came out, no.

6 Q. You just submitted your time slips for out there,
7 right?

8 A. I submitted my time sheets.

9 Q. On other jobs, they did send some inspectors out?

10 A. I wouldn't classify them as inspectors. They were
11 representatives of the company. Again, they would come out
12 just to make sure you knew what -- what to do, and how to
13 do it on that phase of the job. They didn't actually come
14 out to see if you were present, just that you knew how to
15 do the -- do the job.

16 Q. All right.

17 Then let me rephrase this. You're a non-union
18 worker. You're assigned to work at a job, and no one came
19 out and checked to see if you showed up at the job, right?

20 A. I'm a nonunion worker. I was sent to a job. No one
21 ever came out and in person to see if I was there, no.

22 Q. They relied on your word?

23 A. They relied on my word.

24 Q. Okay. Thank you. Did anyone other than the
25 carpenters that worked there introduce themselves to you?

Passewitz - Cross

1 A. I cannot recall. Can you be more specific? Like
2 whom?

3 Q. Were there any other people there other than the
4 workers?

5 A. I believe Mrs. Ferrante was there. You had a -- I
6 don't want to say a hired hand, someone that would take
7 care of the horse stables. He was there. I saw him.

8 Q. Did you know the name?

9 A. I can't recall the name.

10 Q. Could you describe what he looked like?

11 A. Young man, dark hair. That's all I could recall.

12 Q. Is that the only man you saw other than the
13 Manevich's crew?

14 A. I believe so. I can't -- I can't recollect.

15 Q. Would you know if that individual was related to
16 Sandy or not?

17 A. I believe Mrs. Ferrante did mention one time it was
18 her nephew or cousin.

19 Q. How long did you work did you say for the Aeyes?

20 A. I was employed by the Aeyes for little over 16 years.

21 Q. Did they ever have a union contract?

22 A. Not while I was there.

23 Q. Were there different Aey electricians on their
24 payroll?

25 A. You mean by different grades or ability of skill?

Passewitz - Cross

1 Q. Yes.

2 A. Yes.

3 Q. What were some of the lower skilled electricians
4 paid, would you know?

5 A. I could not tell you. I have no idea.

6 Q. Do you know if there was a different wage scale of
7 any kind?

8 A. I'm sure there was a different wage scale according
9 to your ability.

10 Q. Were you considered one of their better workers?

11 A. I hope so. I believe I was.

12 Q. You believe you were their best worker?

13 A. I believe I was one of the top ones.

14 Q. Did they have some workers you felt weren't so good
15 or in the same class as you and some of your other
16 colleagues?

17 A. I wouldn't say they weren't as good. I would say
18 they were just a little inexperienced. They didn't have as
19 much time in their trade as myself.

20 Q. Isn't it a fact that you told the FBI that you worked
21 out there approximately two weeks?

22 A. Initially, I probably did say that until the FBI
23 showed me a copy of my time sheet, which had the particular
24 dates on it. And that's how I revised my story of summer
25 to fall of '93.

Passewitz - Cross

1 Q. Now, isn't it a fact they met with you in late 2000?

2 A. Yes, I believe October. That was the initial visit.

3 Q. So they reminded you that your time sheets were
4 different than what you told them. Is that your testimony?

5 A. No, the initial -- the initial visit from the FBI was
6 in October of 2000. At that time, I told them my story. I
7 did not know of the time sheets until we had the pre-trial
8 conference several months ago. At that time, I was
9 presented copies of my time sheets.

10 Q. Who gave you a copy of your pre -- at the pre-trial
11 conference?

12 A. I'm not sure which lawyer or which Prosecutor it was.

13 Q. Would you know him if he was sitting in this room?

14 A. Yes. I -- I'm not certain which one it is. I know
15 it wasn't lead counsel. I believe it was one of his two
16 assistants.

17 Q. Would the prosecutors direct their faces directly to
18 the witness?

19 A. I believe that was Mr. -- the gentleman right there
20 then.

21 Q. Which gentleman?

22 A. The one straight in front of me raising his hand.

23 Q. Now, so you did have a pre-trial conference. Where
24 was that held?

25 A. Youngstown office of the FBI.

Passewitz - Cross

1 Q. So you met a second time then?

2 A. Yes.

3 Q. Who was present at the second meeting?

4 A. The Prosecutor that just raised his hand.

5 Q. Mr. Smith?

6 A. Mr. Smith and another local FBI agent.

7 Q. One?

8 A. One.

9 Q. Would you remember the name?

10 A. No, I do not.

11 Q. Do you know if they took notes at that meeting?

12 A. I can't recall, but I'm certain they did.

13 Q. Why are you certain they did?

14 A. Well, they seem to take notes every time we had a
15 meeting.

16 Q. Did they give you a copy of that one?

17 A. No.

18 Q. Now, at that meeting, what did they discuss, the
19 second meeting?

20 A. We went over what the agent, the interview we had
21 with the initial agent of October of 2000, and we went over
22 the transcript of my Grand Jury testimony.

23 Q. Did they go over your Grand Jury testimony, was it
24 different --

25 MR. SMITH: Objection; speculation as to

Passewitz - Cross

1 Government reasons.

2 Q. What was the difference between your Grand Jury
3 testimony and what you had told the agents at your first
4 meeting?

5 A. I don't believe there was any difference.

6 Q. What else did they talk to you about then?

7 A. Courtroom procedure here.

8 Q. Attorney Smith drove from Cleveland to Youngstown to
9 tell you courtroom procedure, is that your testimony?

10 A. No. We went over what was said at the interview in
11 October of 2000, the transcript of my Grand Jury testimony.

12 Q. More or less, just an honest going over of what you
13 remembered to be truthful, right?

14 A. More or less a refresher, yes.

15 Q. Um-hum.

16 And there were no differences between your Grand Jury
17 testimony and what you told the FBI agents; is that
18 correct?

19 A. I cannot recall any differences.

20 Q. Did you ever ask for a copy of their notes at the
21 second meeting?

22 A. No. I did not.

23 Q. Did they offer you a copy?

24 A. No, they did not.

25 Q. Who interviewed you before the Grand Jury?

Passewitz - Redirect/Smith

1 A. If you're referring to the October 2000 interview at
2 my house --

3 Q. No. I'm talking about when you came to Cleveland and
4 went before a group of people such as this who were the
5 Grand Jurors, where you were under oath to testify what
6 happened in relation to this case.

7 A. Who actually interviewed me?

8 Q. In front of the Grand Jury, who questioned you?

9 A. I can't recall his name.

10 Q. Well, how many U.S. attorneys were present, would you
11 know?

12 A. I can't recall.

13 Q. Were there more than one?

14 A. I cannot recall.

15 Q. Were you asked to do anything at the barns at the
16 farm?

17 A. No.

18 MR. TRAFICANT: No further questions at this
19 time.

20 THE COURT: Okay.

21 MR. SMITH: Briefly, your Honor.

22

23

24

25

Passewitz - Redirect/Smith

1 REDIRECT EXAMINATION OF THOMAS PASSEWITZ

2 BY MR. SMITH:

3 Q. Mr. Passewitz, during your cross-examination,
4 Congressman Traficant asked you a series of questions about
5 whether anyone from Aey Electric Company came out to
6 monitor or inspect your time that you were spending out at
7 the farm. You recall that series of questions and answers?

8 A. Yes.

9 Q. At any time, did you ever lie to your employer about
10 the amount of time that you were spending at the farm?

11 A. No.

12 Q. When you were out at the farm, who was telling you
13 what work to do at the farm?

14 A. Really, no one. I was a journeyman electrician. I
15 was sent to do a job. The reason I was sent there alone, I
16 was expected to be able to do it without asking a lot of
17 questions.

18 Q. Did you consult with anyone on the premise at any
19 time as to what you should do or where things should go?

20 A. Yes. I consulted with, you know, carpenters. I
21 needed to know what type of finish, the walls would have,
22 the ceiling would have. I needed to know what location of
23 convenience outlets, where they would be most convenient.
24 You know, so I'm not in position of a doorway or a window,
25 information like that.

Passewitz - Recross

1 Q. So were there other people on the site who were
2 available to know whether you were showing up to do work or
3 not?

4 A. Yes. There were some people there.

5 MR. SMITH: No further questions, your Honor.

6 THE COURT: Thank you.

7 RECROSS-EXAMINATION OF THOMAS PASSEWITZ

8 BY MR. TRAFICANT:

9 Q. You submitted the records for your time at the farm,
10 right?

11 A. Correct.

12 Q. And it's your testimony you didn't lie?

13 A. No.

14 Q. And no one ever questioned you did you lie, did they?

15 A. No.

16 Q. Did I ask you if you lied?

17 A. No.

18 Q. You also testified now, the Government asked you if
19 anyone told you what to do out there. Remember that
20 question?

21 A. Yes.

22 Q. And what, in fact, did you say?

23 A. I said I was a journeyman electrician. I should be
24 able to do the job myself.

25 Q. But isn't it a fact then you said that you did

Passewitz - Recross

1 consult with the carpenters?

2 A. Well, yes. I needed to know particular layouts of
3 the room. I wouldn't want to put a location of a switch or
4 outlet in the middle of -- where a door would be or a
5 window would be.

6 Q. So now, did the carpenters live at the house?

7 A. No. The carpenters do not live in the house.

8 Q. Did you ask anyone at the house where they may want
9 some outlets?

10 A. Yes.

11 Q. Who did you ask?

12 A. I believe I might have asked you.

13 Q. You believe, or you know you asked me?

14 A. Well, I may not have asked you in person. I may have
15 asked Sandra Ferrante to ask you to relay the information.

16 Q. I see. So you had conversations with Sandra
17 Ferrante; isn't that correct?

18 A. Yes, I did.

19 Q. Isn't it a fact that she asked you to do certain
20 things certain ways?

21 A. I don't know if she did that or not.

22 Q. Well, isn't it a fact she said I'd like to have this
23 here or this here or this here? What made you put them
24 there?

25 A. Well, if they're convenient to put there, I did.

Passewitz - Recross

1 Q. At whose request?

2 A. I'm not sure.

3 Q. But did you not say you just talked with Sandra
4 Ferrante?

5 A. Yes. But Sandra Ferrante was just a person there
6 taking care of the horses.

7 Q. Did you know if she lived in that apartment?

8 A. Yes, she did live there. I knew that.

9 Q. Was that addition a part of her apartment?

10 A. I guess you would consider that an addition to her
11 apartment.

12 Q. Did she show an interest in this addition?

13 A. I guess you could say that.

14 Q. And as a -- an electrician, when you're working in
15 someone's home, do you not inquire of the homeowners what
16 might be the convenient thing for them?

17 A. Oh, yes. You ask a homeowner's input about it if
18 it's feasible.

19 Q. So you had discussions with Sandra Ferrante with
20 relevance to convenience or what might be convenient to her
21 in the location of outlets and/or electrical wiring at the
22 farm; is that correct?

23 A. You could say that.

24 MR. TRAFICANT: No further questions.

25 MR. SMITH: No questions.

L. Bucheit - Direct/Smith

1 THE COURT: Thanks. You can step down.

2 You're excused.

3 MR. SMITH: The Government calls Leisel

4 Bucheit.

5 THE COURT: Okay.

6 THE COURT: Good morning. Would you raise
7 your right hand?

8 LEISEL M. BUCHEIT,

9 of lawful age, a witness called by the Government,
10 being first duly sworn, was examined

11 and testified as follows:

12 DIRECT EXAMINATION OF LEISEL M. BUCHEIT

13 BY MR. SMITH:

14 Q. Would you please state your full name, and spell your
15 last name -- first and last name for the Court Reporter?

16 A. Leisel M. Bucheit, L-E-I-S-E-L, middle initial M.,
17 last name B-U-C-H-E-I-T.

18 Q. What city do you currently reside, ma'am?

19 A. Washington, D.C.

20 Q. And what is your present occupation?

21 A. I'm a web designer.

22 Q. And what is the name of your father?

23 A. Bernard Joseph Bucheit, Junior.

24 Q. If you could speak, up I'm having a hard time.

25 A. Bernard Joseph Bucheit, Junior.

L. Bucheit - Direct/Smith

1 THE COURT: Just take it out of the stand.

2 Okay? Can you hold it and talk into it. There you go.

3 Just keep it about here. It'll make it easier.

4 Q. Where did you go to college, Ms. Bucheit?

5 A. I went to Marywood College in Scranton, Pennsylvania.

6 Q. What degree did you achieve there?

7 A. I have a bachelor of fine arts.

8 Q. After college, what type of work did you do?

9 A. I worked for a publisher.

10 Q. And after that, what job did you take?

11 A. After that, I took a job with my family's company.

12 Q. Okay. And what company was that?

13 A. It was Bucheit International, Limited.

14 Q. And approximately when did you start working for
15 Bucheit International?

16 A. I think it was like end of January, beginning of
17 February. I'm sorry. I can't remember the year
18 specifically. It was like '92 or '91. I don't know.

19 Q. Early '90s?

20 A. Yeah.

21 Q. Okay.

22 And what was the nature of Bucheit International's
23 business?

24 A. Construction.

25 Q. What type of construction?

L. Bucheit - Direct/Smith

1 A. I am not following with --

2 Q. Commercial, residential?

3 A. Commercial.

4 Q. And what were your duties when you took the job at
5 Bucheit International?

6 A. I basically did some office work and office
7 management, as I guess you would say, and marketing, and
8 answering the phone, a little bit of everything.

9 Q. Did you have any responsibilities for sending out
10 invoices?

11 A. Yes.

12 Q. Writing checks?

13 A. I handled most of the mail, in and out, and wrote
14 checks for bills coming in.

15 THE COURT: Put the microphone up. They're
16 having trouble hearing you. Okay.

17 Q. Was there any other person who was a bookkeeper on
18 the payroll of Bucheit International at that time?

19 A. No, no.

20 Q. Basically how many employees of Bucheit International
21 were there at this time?

22 A. There was just me and my father, and my brother was
23 working, and we had a couple men that were out in the field
24 doing work.

25 Q. Your brother's name was?

L. Bucheit - Direct/Smith

1 A. Kurt.

2 Q. While you were working at Bucheit International, did
3 you ever have contact with a man named David Manevich?

4 A. Pardon me?

5 Q. While you were working at Bucheit International, did
6 you have contact with a man by the name of David Manevich?

7 A. Yes.

8 Q. And what was the nature of your dealings with David
9 Manevich?

10 A. Dave was working in the field, and he would come into
11 the office every once in an awhile and submit some material
12 bills and labor bills.

13 Q. Where was he working when he did this?

14 A. He was working both at my brother's house and at
15 Congressman -- or the Traficant farm shall I say.

16 Q. And what type of work was Mr. Manevich doing?

17 A. He was a carpenter.

18 Q. Do you know whether or not Bucheit International had
19 any written contact with Manevich?

20 A. Not that I'm aware of.

21 Q. Since there was no written contract, how was
22 Mr. Manevich assigned what he was supposed to do out at the
23 farm?

24 A. I assume that my dad would tell him what needed to be
25 done as far as scope of work.

L. Bucheit - Direct/Smith

1 Q. Do you know how Mr. Manevich got paid for his work?

2 A. As I said, he would come in and submit a bill that
3 would have materials and time, hours on it.

4 Q. All right. And when the bill was submitted or the
5 invoice, whatever it was, what did you do?

6 A. I would write him a check for it.

7 Q. At this point, do you have personal knowledge of what
8 the scope of the work done out at the farm was?

9 A. None whatsoever.

10 Q. How often would you pay Mr. Manevich?

11 A. I really can't recall if it was on a regular weekly,
12 bi-weekly. It was kind of -- whenever he stopped by, and I
13 was traveling and -- so usually, he would call and say that
14 he was going to stop by and --

15 Q. Ma'am, if you could direct your attention to
16 Government's Exhibits 7-39(1), 7-39(2), 7-39(3) 7-39(4) and
17 7-39(5) on the counter before you, and look up when you've
18 had a chance to examine those documents.

19 Do you recognize those five documents?

20 A. Yes. They're checks that were written on the Bucheit
21 account.

22 Q. And do you recognize who signed those documents on
23 behalf of the Bucheit account?

24 A. It appears to be my father's signature.

25 Q. All right.

L. Bucheit - Direct/Smith

1 And how is it that you recognize your father's
2 signature?

3 A. Just from seeing it before previously.

4 Q. Throughout the years?

5 A. Yeah.

6 Q. Is each of those items a check?

7 A. Yes.

8 Q. Are they all made payable to the same company?

9 A. Yes.

10 Q. What company are they made payable to?

11 A. Aey Electric.

12 Q. And what work did Aey Electric do in order to obtain
13 those checks from the Bucheit Company?

14 A. I really can't say offhand. I don't know.

15 Q. Would looking at any documents perhaps refresh your
16 recollection on that point?

17 A. Possibly.

18 Q. All right. Showing you Government's Exhibit 7-38(1)
19 and 7-38(2), if you'll just look at those silently to
20 yourself.

21 MR. TRAFICANT: I ask that the four 7-39s be
22 made joint exhibits.

23 MR. SMITH: Actually, there's five of them,
24 your Honor.

25 MR. TRAFICANT: 2, 3, 4 and 5.

L. Bucheit - Direct/Smith

1 MR. SMITH: There's 1, 2, 3, 4, and 5, your
2 Honor.

3 MR. TRAFICANT: I ask all be made joint
4 exhibits.

5 THE COURT: Certainly.

6 MR. SMITH: No objection, your Honor.

7 THE WITNESS: I don't recognize these, and it
8 doesn't really strike up anything in my memory.

9 Q. All right.

10 Are those five checks, Government's Exhibit 7-39(1),
11 (2), (3), (4) and (5) all checks made payable on an account
12 of one of the Bucheit Companies?

13 MR. TRAFICANT: Objection. Asked and
14 answered.

15 Q. Or some work done by them?

16 THE COURT: She can answer.

17 A. I'm sorry. Could you ask that again.

18 Q. Are Government's Exhibit 7-39(1), (2), (3), (4), and
19 (5) copies of checks to Aey Electric for some work that
20 they had done for one of the Bucheit Companies?

21 A. Well, it's -- yeah, made out to Aey Electric, so I
22 would assume it's for work.

23 Q. All right.

24 Now, at the time that you were -- that Mr. Manevich
25 was working out at the farm, how many other carpenters did

L. Bucheit - Direct/Smith

1 Bucheit International have on the payroll or was paying at
2 that time?

3 A. Well, I don't know necessarily carpenters, but we had
4 two other men that worked out in the field.

5 Q. Where did they work?

6 A. They worked in Washington.

7 Q. Washington, D.C.?

8 A. Yes.

9 Q. How many carpenters did you have in the Youngstown,
10 Ohio, area other than David Manevich working out at the
11 farm?

12 A. None that I'm aware of.

13 Q. All right. How many electricians other than Aey
14 Electric Company did you have working on the Bucheit
15 International payroll at the time that David Manevich was
16 working out at the farm?

17 A. Well, we were subbing work to different electricians,
18 but that would be in Washington. I'm not aware of any in
19 Youngstown.

20 Q. In the Youngstown -- excuse me - in the Youngstown
21 area.

22 Limiting questions to the Youngstown area, at the
23 time that David Manevich was working out at Congressman
24 Traficant's farm, how many electricians, other than Aey
25 Electric, did you have on the Bucheit Company payroll or

L. Bucheit - Direct/Smith

1 were paying at that time?

2 A. None.

3 MR. TRAFICANT: I ask 7-38(1) and (2) be made
4 joint exhibits.

5 MR. SMITH: No objection.

6 THE COURT: Fine.

7 BY MR. SMITH:

8 Q. At the time that the work was being done out at the
9 farm, do you recall the number of jobs for which Aey
10 Electric was working for the Bucheit Companies?

11 A. I believe it was this particular instance.

12 Q. What instance are you referring to?

13 A. To the job at the Traficant farm.

14 Q. So was Aey Electric working out at the Traficant
15 farm?

16 A. Yes. I would assume so.

17 Q. Did Congressman Traficant ever pay your father or any
18 of -- any of your father's companies for the work that was
19 done out at that farm?

20 A. Not when I was employed at the company.

21 Q. And you left the employment of the company when?

22 A. In the spring of 1999 I think it was.

23 Q. Was there --

24 A. No, I'm sorry. It was in the spring of -- it was --
25 I was 30 years old, so it was '96.

L. Bucheit - Direct/Smith

1 Q. Was any bill ever sent to the Congressman for the
2 work done at the farm?

3 A. Yes.

4 Q. And the -- to your knowledge, did Congressman
5 Traficant pay that bill until the time that you left the
6 company?

7 A. Not that I'm aware of.

8 Q. Where is that bill now?

9 A. I don't know. I'm assuming it's with records that
10 are --

11 Q. And you're making an assumption there?

12 A. With the company, yes.

13 Q. Do you have personal knowledge to where that bill is
14 today?

15 A. Pardon me?

16 Q. Do you have personal knowledge of the location of
17 that bill today?

18 A. All I know is that a bill is sent out because I know
19 that I would have been the one to do that --

20 Q. And do you have --

21 A. -- and create that.

22 Q. And do you know where the bill is now?

23 A. No.

24 Q. Other than sending that bill, did the Bucheit Company
25 take any action to collect on that bill?

L. Bucheit - Direct/Smith

1 A. Not that I'm aware of.

2 MR. SMITH: May I have a moment, your Honor?

3 THE COURT: Yes.

4 Q. Is Bucheit International still in business?

5 A. I don't really know the status of the corporation.

6 Q. Okay.

7 MR. SMITH: Nothing additional.

8 THE COURT: Thank you very much.

9 Congressman, it's about six minutes before noon.

10 What do you think? Is this a better time?

11 MR. TRAFICANT: I would like to give the jury
12 a break early, and if you want to come back early, I'll
13 come back early, but I would like to come back at 1:30 if
14 we could.

15 THE COURT: Okay. That means you'll have to
16 come back at 1:30.

17 THE WITNESS: Okay.

18 THE COURT: But, the jury's been working hard
19 all day, so we're going to give you your lunch break. See
20 you back at 1:30.

21 (Thereupon, a luncheon recess was had.)

22

23

24

25

L. Bucheit - Cross

1 Wednesday Session, March 13, 2002, at 1:30 P.M.

2 THE COURT: You're still under oath.

3 CROSS-EXAMINATION OF LEISEL M. BUCHEIT

4 BY MR. TRAFICANT:

5 Q. Good afternoon, Leisel.

6 A. Good afternoon, Congressman.

7 Q. I missed where you said you worked in D.C. Where are
8 you working at now?

9 A. I work actually in Arlington.

10 Q. For what company?

11 A. For DTI Associates, Government subcontractor.

12 Q. Did I help your father a lot?

13 A. Yes.

14 Q. Did I go out of my way to help your father?

15 A. Yes.

16 Q. Were you proud of my efforts?

17 A. Yes.

18 Q. Now, I also missed the college in Pennsylvania you
19 went to. I'd like to know personally where did you go to
20 school?

21 A. Marywood.

22 Q. Marywood?

23 A. Yes.

24 Q. And, basically is Bucheit International a company
25 that's really run by -- by your dad, nicknamed Pete?

L. Bucheit - Cross

1 A. Yes.

2 Q. He's the boss, isn't he?

3 A. Yes.

4 Q. To the best of your knowledge, how long ago did the
5 job at the Traficant farm take place? Try and think back
6 how many years?

7 A. I can't even think back. I don't really even know
8 what year that was.

9 Q. Would you say '93, approximately?

10 A. Probably. I have -- I'm not really too sure to be
11 honest.

12 Q. Would you say it was longer than seven years ago?

13 A. Yeah.

14 Q. Isn't it a fact you weren't really trained in
15 bookkeeping?

16 A. That's absolutely true.

17 Q. But your dad had you do some bookkeeping, didn't he?

18 A. I wouldn't really even call it bookkeeping. It was a
19 matter of when the telephone bill came in you paid it,
20 electric bill, those types of things.

21 Q. You helped your dad with what had to be done, right?

22 A. Yeah.

23 Q. Now, you said that this fellow Manevich did work at
24 your brother's house and at --

25 A. Yes.

L. Bucheit - Cross

1 Q. -- some particular point did some work at the farm?

2 A. Yes.

3 Q. Isn't it a fact, though, you had no knowledge of what
4 scope of work was being done at the farm?

5 A. None whatsoever.

6 Q. Do you know if anybody ever went out and checked on
7 Dave Manevich to see if he was at the farm?

8 A. I don't have any knowledge of that.

9 Q. Now, you said you left in the spring of 1996; is that
10 correct?

11 A. Yes. That's my best estimate.

12 Q. Did you have a file known as the Traficant file?

13 A. Meaning?

14 Q. When you had files and projects, did you have names
15 put in storage boxes or cabinets?

16 A. We kept like little manila folders.

17 Q. So you would have had one basically that said
18 Traficant, right?

19 A. Yeah.

20 Q. Now, did you send the invoices?

21 A. I sent out, yes, invoices.

22 Q. Did you ever know who really owned the Traficant
23 farm?

24 A. No, not really. I just knew it as the Traficant
25 farm.

L. Bucheit - Cross

1 Q. How many times did the FBI meet with you, Leisel?

2 A. They came by my office once prior to the Grand Jury
3 and then a second time, subsequently took the subpoena for
4 this occasion.

5 Q. Now, when they came by the first time, where was your
6 office?

7 A. It was at the National Press building.

8 Q. Where is that located?

9 A. In Washington, D.C.

10 Q. How many people came?

11 A. Two people.

12 Q. They identify themselves?

13 A. Yes.

14 Q. Who were they?

15 A. Two FBI agents.

16 Q. Were they from D.C.?

17 A. Yes, I believe they were.

18 Q. Did they serve you your subpoena in D.C. to come to
19 the Grand Jury?

20 A. Oh, yes, they did at that time.

21 Q. Were they the same agents?

22 A. Yes. It was at that time they gave me the subpoena.

23 Q. After they met with you?

24 A. No. They didn't meet with me at all. They just came
25 over and identified themselves and told me what it was

L. Bucheit - Cross

1 about and gave me the paper at that time.

2 Q. So they never asked you any questions. They just
3 served you with a subpoena to come to --

4 A. Well, I didn't really feel comfortable in answering
5 questions. I didn't know what it was all about, and I felt
6 like I would show up, and they would ask me the questions
7 in front of the Judge.

8 Q. And they then did what?

9 A. They then left.

10 Q. Then they came back how long after?

11 A. They didn't ever come back. They just came to
12 deliver the subpoena for this. I --

13 Q. How long after you told them that, you know -- when
14 they first came?

15 A. They first came, and then I went up for the Grand
16 Jury and went for that process, and then subsequently, they
17 came and delivered the subpoena for this occasion.

18 Q. Okay.

19 So the first time they came, they didn't ask any
20 questions; they already had a subpoena in their pocket?

21 A. Yes.

22 Q. They came with a subpoena?

23 A. Yes.

24 Q. Did you feel intimidated?

25 A. Somewhat, yes.

L. Bucheit - Cross

1 Q. Do you remember that Grand Jury testimony, best of
2 your ability?

3 A. I got an opportunity to reread a couple pages before
4 this. I don't think I had an opportunity to reread the
5 whole thing, but --

6 Q. Did you testify truthfully before the Grand Jury?

7 A. Yes.

8 Q. Who examined you and asked you questions before the
9 Grand Jury? What prosecutors?

10 A. I can't really remember. I don't --

11 Q. Are any of them in the room? Would you look at the
12 table?

13 A. Well, I recognize the faces, but I can't remember
14 specifically who asked me what.

15 Q. Well, how many of them seated here were in the room?

16 A. I believe those three were right here, but --

17 Q. Were there any others?

18 A. I really can't recall.

19 Q. Did more than one Prosecutor ask you questions?

20 A. I think there may have been two.

21 Q. Isn't it a fact that they got very accusatory with
22 you?

23 A. They seemed to get a little stressed in their voice
24 towards the end.

25 Q. Did you feel pressured?

L. Bucheit - Cross

1 A. Somewhat.

2 Q. Isn't it a fact you appeared before the Grand Jury in
3 the middle of August of 2000?

4 A. I believe that was the time frame.

5 Q. And when did you leave the company?

6 A. Well prior to that, in the spring right before my
7 30th birthday. So it was 1996.

8 Q. 1996?

9 A. Yes.

10 Q. But you testified in the Year 2000, right?

11 A. Yeah.

12 Q. Four years later?

13 A. Yeah.

14 Q. And were they not asking you specific questions that
15 they continuously addressed through different types of
16 verbiage and words?

17 A. They asked some things repeatedly and framed it
18 differently, yeah.

19 Q. Did you get the impression they were trying to trap
20 you, Leisel?

21 MR. SMITH: Objection to what the
22 Government's reasons or motives were.

23 THE COURT: You can talk about your
24 impression.

25 THE WITNESS: Can you --

L. Bucheit - Cross

1 Q. You can answer that question. Did you get the
2 impression that they -- could you read -- please reread
3 that question.

4 (Thereupon, the record was read back by the Court
5 Reporter.)

6 THE WITNESS: Well, my impression was that I
7 felt a great sense of having to watch every word that I
8 said, and that everything that I was saying was going to
9 somehow be overly scrutinized.

10 Q. Did they ever try and use the words you say to try
11 and make it look like it was something other than what you
12 intended to say?

13 A. I -- I would say possibly. I'm -- I didn't really --
14 a couple occasions I think I had to correct them, whether
15 they reiterated what I had said or an instance like that.

16 Q. Did the IRS ever question you?

17 A. No, sir.

18 Q. You have any knowledge that your father and I had an
19 agreement?

20 A. No.

21 Q. Did Bucheit International have debts for long periods
22 of times with other people?

23 A. Yes.

24 Q. Do you still have a long standing debt with someone?

25 A. Probably.

L. Bucheit - Cross

1 Q. Was it your job to go out and collect debts?

2 A. No.

3 Q. Isn't it a fact the Government was trying to catch
4 you in a lie to charge you with perjury?

5 MR. SMITH: Objection as to what the
6 Government's reasons were.

7 THE COURT: That objection is sustained.

8 Q. Did the Government ever threaten to indict you,
9 Leisel?

10 A. No, sir.

11 Q. Do you remember questioning whether or not the
12 Traficant farm received the bills?

13 A. I'm sorry. Could you repeat that?

14 Q. Do you remember -- can you recall the questions in
15 the Grand Jury about, well, how would the Traficant farm --
16 or how can you prove that the Traficant farm got the bills?

17 A. I don't know if I was specifically asked that
18 question or not. I don't really recall that being a
19 question.

20 Q. Did there come a time in your Grand Jury when you
21 told the FBI -- where you told the prosecutors that they
22 should call the Congressman to see if the bill was paid?

23 A. I may have said that.

24 Q. Wasn't it a fact that in much of your work, much of
25 it was spent in Washington dealing also with D.C. projects?

L. Bucheit - Cross

1 A. Yes.

2 Q. You became involved in Gaza; isn't that correct?

3 A. Yes.

4 Q. The building relative to the General Accounting
5 Office?

6 A. Yes.

7 Q. Weren't you involved with the OPIC matters?

8 A. Yes.

9 Q. Wasn't that a long, continuous process that involved
10 a lot of hours?

11 A. Arduous, yes.

12 Q. Did anything in Youngstown at any time when you were
13 working in Youngstown take precedence over anything you
14 were doing in D.C.?

15 A. Definitely not.

16 Q. Did you ever ask the Government if it was more than
17 seven years ago why are you asking me questions?

18 A. I never asked them that, no.

19 Q. Did they specifically try and tie you down to a
20 specific time of the project out at the farm?

21 A. I don't think they tried to specifically tie me down.
22 They just in general were asking my impressions of the time
23 line, and I'm rather foggy on what that is.

24 Q. Isn't it a fact you told them they could go see
25 Mr. Manevich?

L. Bucheit - Cross

1 A. I may have said that again. I don't really
2 specifically recall saying that.

3 Q. Would you know my father if my father walked in here?

4 A. No.

5 Q. Now, when you left the company, did you have any
6 knowledge of any of their records?

7 A. No, none whatsoever.

8 Q. Did you take any of them with you?

9 A. No.

10 Q. Who ultimately would look into the financial affairs
11 of the company?

12 A. Meaning?

13 Q. Money owed, work done?

14 A. That would fall on the shoulders of my father.

15 Q. Now, if you received a bill that called for materials
16 and stuff, would you know what those materials were or
17 would be?

18 A. Two by fours and things like that I would recognize,
19 yes.

20 Q. Did I ever call you about your testimony?

21 A. No, sir.

22 Q. Have I ever talked to you about this case?

23 A. No, sir.

24 Q. Has the Government talked to you about this case?

25 A. Just in relationship to travel and making my way up

L. Bucheit - Cross

1 here in a timely manner and where to go, et cetera,
2 logistics.

3 Q. Did you question your father's business decisions?

4 A. No.

5 Q. Did your dad tell you what to tell the Grand Jury?

6 A. No.

7 Q. Was there any attempt at any time by you or anyone in
8 your family, to the best of your knowledge, to conceal any
9 facts about Jim Traficant?

10 A. No.

11 Q. To the best of your knowledge, did the banks that
12 you've dealt with, do they have and would they have kept
13 records of your cancelled checks that were paid to you, to
14 the company?

15 A. I don't have any idea what sort of records --

16 Q. For example, let's say that John Doe wrote Bucheit
17 International a check and it was cashed by Bucheit
18 International and put in the bank, would the bank have a
19 record?

20 MR. SMITH: Objection. She just said she
21 didn't know.

22 THE WITNESS: Well, I don't think they keep
23 records after a certain point, and this has been some time
24 ago, so whether they would have something like that to
25 begin with, I don't know, other than, you know, generic

L. Bucheit - Cross

1 deposits shown on the statement.

2 Q. After the FBI or after the Government talked to you,
3 did you go to the bank and say hey, what's going on here?

4 A. Well, they didn't never talk to me. They just
5 questioned me, and I just don't have access to any of those
6 records or account numbers or anything else.

7 Q. Isn't it a fact they hit you cold and brought you
8 before a Grand Jury?

9 A. I don't really know how to answer that.

10 Q. Try.

11 A. I -- I mean by hitting me cold, meaning --

12 Q. No FBI agents talked to you about an investigation,
13 did they? Did an FBI agent ask you what you did with Jim
14 Traficant?

15 A. I didn't never talk to the FBI, no.

16 Q. Did they ever tell you I was the target of their
17 investigation?

18 A. They did inform me of that at the time that they gave
19 me the subpoena.

20 Q. When they gave you the subpoena?

21 A. For the Grand Jury.

22 Q. For the Grand Jury?

23 A. Yes.

24 Q. Now, did you ever go out in the field and check
25 anybody's work?

L. Bucheit - Cross

1 A. No.

2 Q. Do you do that for your company now?

3 A. No.

4 Q. Did your dad ever tell you that Jim Traficant was not
5 going to pay the bill?

6 A. No.

7 MR. SMITH: Objection what her father said.

8 THE COURT: You have to disregard her answer.

9 Q. Do you have any knowledge if, in fact, Jim Traficant
10 was not going to pay the bill?

11 MR. SMITH: Same objection.

12 THE COURT: You can answer that question.

13 THE WITNESS: Can you repeat that again,
14 please? Sorry.

15 Q. Do you have any knowledge that Jim Traficant was not
16 going to pay the bill?

17 A. No.

18 Q. Did you have any knowledge that Jim Traficant was
19 going to pay the bill?

20 A. I didn't have any knowledge of that either.

21 Q. Were you my constituent?

22 A. Yes.

23 Q. Your family my constituents?

24 A. Yes.

25 Q. Was your company a company in my district?

L. Bucheit - Cross

- 1 A. Yes.
- 2 Q. Did you come to me for help?
- 3 A. Yes.
- 4 Q. Isn't it a fact you also went to Senator Glenn for
5 help?
- 6 A. Yes.
- 7 Q. Isn't it a fact that I finally negotiated the matter?
- 8 A. Pardon me?
- 9 Q. Isn't it a fact that I finally negotiated the matter?
- 10 A. Yes.
- 11 Q. Did the Saudi Government give you the shaft, Leisel?
- 12 A. Yes.
- 13 Q. Did they get away with it?
- 14 A. They got away with a lot of things against a lot of
15 companies.
- 16 Q. Wasn't it a fact they kept your workers hostage?
- 17 A. Yes.
- 18 Q. At one point?
- 19 A. Yes.
- 20 Q. Wasn't it a fact that your father was so desperate he
21 was willing to accept a \$1 million settlement just to get
22 out of there?
- 23 A. I don't have any knowledge of that, but --
- 24 Q. Was that prince an honorable man?
- 25 A. No, I would say not.

L. Bucheit - Cross

1 Q. Did you have knowledge that I wrote personally to the
2 King?

3 A. No. I do not have knowledge of that.

4 Q. Did you know that I recommended a civil RICO action
5 against that prince?

6 A. I think I may have read that in some of the
7 documents.

8 Q. Is that what brought him to the table, Leisel?

9 THE COURT: Well, that -- there's no way that
10 she would know what brought the prince to the table.

11 Q. Well, do you believe that the civil RICO and the
12 taking of his passport got Saudi Arabia to look into your
13 case?

14 MR. SMITH: Objection.

15 THE COURT: Sustained. We don't know why
16 Saudi Arabia did whatever they did. And this witness is in
17 no position to tell us about that.

18 Q. Were you made aware that the terms of the final
19 settlement were to be kept quiet and sealed as a part of
20 the agreement?

21 A. Yes.

22 Q. Do you know what those numbers were?

23 A. No, I wasn't privy to that.

24 MR. TRAFICANT: I have no further questions
25 at this time.

Rosselli - Direct/Morford

1 THE COURT: Thank you.

2 MR. SMITH: No redirect.

3 THE COURT: Thank you very much.

4 THE WITNESS: That's all?

5 THE COURT: You're excused. Yes.

6 THE WITNESS: Okay.

7 MR. MORFORD: Your Honor, the next witness is
8 Dominic Rosselli.

9 THE COURT: Would you please raise your right
10 hand.

11 DOMINIC LOUIS ROSSELLI,
12 of lawful age, a witness called by the Government,
13 being first duly sworn, was examined
14 and testified as follows:

15 DIRECT EXAMINATION OF DOMINIC LOUIS ROSSELLI

16 BY MR. MORFORD:

17 Q. Good afternoon.

18 A. Good afternoon.

19 Q. Could you please state your full name, and spell your
20 last name, please?

21 A. Dominic Louis Rosselli, Junior, R-O-S-S-E-L-L-I.

22 Q. And, Mr. Rosselli, I notice you have a little bit of
23 a quiet voice. I'm going to ask you if you can take that
24 microphone out actually to hold it in your hand to make
25 sure we can hear you because it's a big old courtroom, and

Rosselli - Direct/Morford

1 everybody can hear you. Okay?

2 A. Okay.

3 Q. Mr. Rosselli, do you have any nicknames that you go
4 by?

5 A. Chip.

6 Q. And could you tell the jury where you currently
7 reside, not the full address but just the city in which you
8 reside?

9 A. Poland, Ohio.

10 Q. And is -- where is that in relation to Youngstown?

11 A. It's Southeast of Youngstown, about ten miles outside
12 of Youngstown.

13 Q. Can you walk us through your educational background a
14 little bit, please?

15 A. I graduated Youngstown State University with a
16 Bachelor of Science in Business Administration and am a
17 certified public accountant.

18 Q. Where did you work upon graduating from Youngstown
19 State University?

20 A. My first job was with the Ohio Department of Taxation
21 as a sales tax auditor. I then worked with Alexander Grant
22 Company as a tax specialist.

23 Q. What is the Alexander and Grant Company?

24 A. It's a national -- international accounting firm.

25 Q. And approximately how long did you work for that

Rosselli - Direct/Morford

1 firm?

2 A. Four years.

3 Q. And where did you go to work after you left that
4 firm?

5 A. I went to work for the Cafaro Company.

6 Q. Okay. And what did you do at the Cafaro Company?
7 Walk us through the different positions you held and the
8 time frame that you held them.

9 A. I started in the tax department as a tax accountant.
10 I moved on with additional responsibilities to include
11 handling real estate taxes. I was then later moved up to
12 assistant treasurer position, and eventually, I became the
13 treasurer and chief financial officer.

14 Q. Okay. And when was it approximately that you became
15 the chief financial officer and treasurer of the Cafaro
16 Company?

17 A. January 1st, 1997.

18 Q. And what is the business of the Cafaro Company?

19 A. A real estate owner and developer of commercial real
20 estate, shopping centers and plazas.

21 Q. And what exactly is the Cafaro Company itself in
22 terms of the structure?

23 A. The Cafaro Company is a name we use to blanket,
24 refers to all of the real estate holdings of the Cafaro
25 family.

Rosselli - Direct/Morford

1 Q. And where is the Cafaro Company headquarters located?

2 A. Headquarters are in Youngstown, Ohio.

3 Q. And where does the Cafaro Company rank compared to
4 other national commercial real estate companies in terms of
5 size? Do they do rankings like that?

6 A. Yes, they do. They're ranked 11th in the United
7 States, and the ranking is based on the square footage
8 owned and managed, which is approximately 33 million square
9 feet.

10 Q. What region are we talking about in which these malls
11 are located?

12 A. Currently, the midwest. We have several properties
13 in the Pacific Northwest and as far east as Virginia.

14 Q. But the main base is out of Youngstown; is that
15 correct?

16 A. Yes.

17 Q. And could you describe for the jury your duties as
18 the treasurer and CFO of the Cafaro Company? What things
19 fall under your realm?

20 A. I'm responsible for mostly the handling of revenue
21 and expenses. I oversee billing of tenants, the collection
22 of the rent, the investment of cash from the rent, and
23 paying the bills.

24 Q. Who oversees the accounting department?

25 A. It falls under my jurisdiction.

Rosselli - Direct/Morford

1 Q. And how about the tax accounting department?

2 A. Same thing, falls under me.

3 Q. Who actually founded the Cafaro Company?

4 A. William Cafaro -- William M. Cafaro founded it.

5 Q. Is he now deceased?

6 A. Yes. He died in April of '98, I believe.

7 Q. And who is currently the main person in charge of the
8 Cafaro Company?

9 A. Anthony Cafaro currently runs the company.

10 Q. And what is Anthony Cafaro's relationship to -- what
11 was his relationship to William Cafaro?

12 A. Anthony is William Cafaro's son, oldest son.

13 Q. Did William Cafaro have any other children besides
14 Anthony?

15 A. Yes. He has another son John J. Cafaro, and --

16 Q. Are the other two children --

17 THE COURT: Wait for the reporter to catch
18 up.

19 THE WITNESS: John J. And Flora Cafaro.

20 THE COURT: F-L-O-R-A?

21 THE WITNESS: Yes.

22 MR. MORFORD: Thank you.

23 Q. John J. Cafaro, does he go by a nickname?

24 A. J.J.

25 Q. With respect to Flora and J.J., are they also

Rosselli - Direct/Morford

1 involved with the Cafaro Company in any way?

2 A. Yes, they are.

3 Q. And how would you describe Flora's role with the
4 Cafaro Company?

5 A. Flora serves as assistant treasurer. She handles --
6 she comes in and works on bill paying and invoice
7 processing.

8 Q. And how about J.J., what's his role with the company?

9 A. His role is primarily real estate department, working
10 with tenants, negotiating leases.

11 Q. And who does he answer to in terms of the hierarchy
12 of the company?

13 A. His oldest brother, Anthony Cafaro.

14 Q. As a practical matter, who has the supreme authority
15 over this business, the real estate business collectively
16 known as the Cafaro Company?

17 A. Anthony Cafaro does.

18 Q. Now, is this a publicly traded company or a family
19 owned company?

20 A. It's family owned.

21 Q. Now, are you familiar with a venture that involved
22 the Cafaro family and the Avanti Motor Company?

23 A. Yes, I am.

24 Q. And could you describe the nature of that venture and
25 in a nutshell?

Rosselli - Direct/Morford

1 A. The Avanti Motor Company was producing cars. They
2 would take a chassis from a GM built vehicle, remove the
3 body, and put a sports car style body on it and sell those
4 to the public.

5 Q. And where were those cars being manufactured?

6 A. They were manufactured in Youngstown, Ohio, Ross
7 Industrial Park.

8 Q. And who from the Cafaro Company or family was
9 actually in charge of this venture?

10 A. J.J. Cafaro was.

11 Q. And do you know the approximate time frame that that
12 venture took place?

13 A. Avanti ran from 19 -- approximately 1986 through
14 1991.

15 Q. And as based upon the duties that you described that
16 you've had with the Cafaro Company, are you familiar with
17 the amount of money that was invested by the Cafaros and
18 the Cafaro Company into that venture?

19 A. I believe it to be approximately \$26 million.

20 Q. And how did that venture work out from a financial
21 perspective for the Cafaro family?

22 A. It was -- they lost all \$26 million.

23 Q. Now, who was ultimately responsible for covering that
24 \$26 million loss?

25 A. J.J. Cafaro was.

Rosselli - Direct/Morford

1 Q. And why was that?

2 A. It was his venture, and he -- it was his investment.

3 Q. Did there come a time when J.J. Cafaro left the
4 Cafaro Company?

5 A. Yes. He left for a brief period. He left in
6 approximately 1989. He was gone for several years. He
7 came back, I believe, in '92 on a part-time as a consultant
8 type basis, not as an employee, and he returned full-time
9 in 1995.

10 Q. And when and in terms of sequence, in terms of
11 relation, did he leave relative to the failure of the
12 Avanti company and the loss of the \$26 million?

13 A. He left during probably the middle of the Avanti
14 years, and he returned a year or so after it ceased
15 operations.

16 Q. I'd like to ask you some questions about a Cafaro
17 investment and a laser landing technology. Are you
18 familiar with that?

19 A. Yes, I am.

20 Q. And turning your attention to 1996, do you recall an
21 issue arising regarding a potential investment in some
22 laser landing technology?

23 A. Yes, I do.

24 Q. And who in the Cafaro family brought up the idea of
25 having Cafaro family funds invested in this technology?

Rosselli - Direct/Morford

1 A. J.J. Cafaro did.

2 Q. Had the Cafaro Company ever been involved in this
3 type of technology before?

4 A. No, they had not.

5 Q. Had they ever been involved in an investment, in any
6 kind of technology, new technology before?

7 A. Not that I'm aware of.

8 Q. Now, were you personally involved in any Cafaro
9 Company meetings regarding the feasibility and profit
10 potential of this potential investment in this laser
11 technology by the Cafaro Company?

12 A. Yes, I was.

13 Q. And with respect to this potential investment, if the
14 company went forward with the investment, who was going to
15 lobby the federal government on behalf of this technology?

16 A. J. J. Cafaro would.

17 Q. Now, if you could just describe again in a nutshell
18 without getting into too much detail your general
19 understanding of the nature of this technology, if you
20 could explain that to the jury?

21 A. The technology was, it was a small box that they
22 would place at the end of the runway. Out of the box,
23 there would be multiple laser beams, different colors, and
24 pilots, as they would approach the runway would be able to
25 look down, see the lasers, and know if they were on the

Rosselli - Direct/Morford

1 proper path to land on the runway or not.

2 Q. Now, do you know who it was that had actually
3 invented this technology or the use of this technology for
4 the purpose you've described?

5 A. Their names were Shemwell and Vetter. I don't
6 recall the first name, Alan Shemwell and David Vetter.

7 Q. What was the connection between the Cafaro Company
8 and this invention of Shemwell and Vetter as this project
9 started?

10 A. It originally started off as approximately a \$2
11 million loan to an entity known as LaserLine, which was
12 trying to market the technology.

13 Q. Okay. And who was the main principal behind
14 LaserLine?

15 A. Their names were Eddington and Catrell.

16 MR. TRAFICANT: I didn't hear that.

17 THE WITNESS: Eddington and Catrell.

18 Q. And you said there was a \$2 million loan from whom to
19 whom?

20 A. The loan was from the Cafaro Company to LaserLine.

21 Q. And as this investment started, what was your
22 understanding of the potential markets for this technology?

23 A. It would be primarily marketed to commercial
24 airports.

25 Q. And were there any other applications as you

Rosselli - Direct/Morford

1 understood it or potential applications?

2 A. Potential applications in the marine use.

3 Q. When you say marine use --

4 A. Guiding ships through narrow harbors and channels.

5 Also, there was military applications.

6 Q. Now, could you describe the first financial
7 involvement then of the Cafaro Company? You said there was
8 talk of a loan. Was the loan actually made?

9 A. Yes. In 1996, a loan was made of approximately \$2
10 million to LaserLine.

11 Q. And then after that loan was made, did there come a
12 time when the Cafaro Company took a more active role than
13 simply loaning money to LaserLine?

14 A. Yes. In August of 1997, J.J. Cafaro acquired the
15 technology from the inventors.

16 Q. And after J.J. Cafaro actually acquired the rights to
17 the technology, what commitment did the Cafaro Company make
18 towards funding this technology?

19 A. In early 1999 -- well, the company made a commitment
20 to fund \$125,000 a month to begin the marketing process for
21 the technology.

22 Q. Why -- well, whose decision was it to put an amount
23 of \$125,000 a month on the investment?

24 A. Anthony Cafaro's.

25 Q. And what is your understanding as to why that

Rosselli - Direct/Morford

1 \$125,000 cap was put on the investment?

2 A. To control the spending, to not let things get out of
3 hand as much as they did in the Avanti situation.

4 Q. Were there any entities set up to handle the
5 financing of this venture?

6 A. Yes, there was. We set up an entity known as Cafaro
7 Laser.

8 Q. And was there any other entity besides Cafaro Laser
9 that was set up to handling the marketing of this
10 technology?

11 A. Yes. An entity known as U.S. Aerospace Group was set
12 up to actually market the project.

13 Q. Did U.S. Aerospace Group go by an another name,
14 shortened version of that?

15 A. USAG, I believe.

16 Q. Now, what was the purpose of Cafaro Laser, as you
17 understood it?

18 A. Cafaro Laser was just to loan money. It was the
19 Cafaro family's ownership and by loaning the money to USAG.

20 Q. And then what was the USAG? What was its purpose?

21 A. Its purpose was to market the product, own -- I
22 believe own the technology and market it.

23 Q. Now, you said that there was a budget set up of
24 \$125,000 a month. Who was in charge ultimately of
25 monitoring the disbursements of the \$125,000 a month to

Rosselli - Direct/Morford

1 make sure that USAG stayed within the \$125,000 a month?

2 A. Initially, I was.

3 Q. At the time these discussions were taking place about
4 investing large sums of money in this technology, what was
5 discussed as to the profit making potential of this laser
6 technology?

7 A. It was -- they anticipated huge profits from the
8 technology.

9 Q. And what was the primary market for this technology,
10 as you understood it? Who were the customer base?

11 A. Commercial airports.

12 Q. And would that be public, private, or both?

13 A. Both.

14 Q. What, if any, hurdles did the technology need to
15 overcome before the technology could be sold to U.S.
16 airports?

17 A. The technology did not have FAA certification, which
18 would have been required in order to sell to commercial
19 airport.

20 Q. And how significant was this hurdle of obtaining FAA
21 certification to this investment?

22 A. It would be probably impossible to sell almost to a
23 commercial airport.

24 Q. Now, assuming the company could obtain FAA
25 certification, where would the airports, which you said

Rosselli - Direct/Morford

1 were the potential customers, where would they get the
2 funds needed to buy the technology, as you understood it?

3 A. I understood it would come from Government funding.

4 Q. And who was the person ultimately in charge of the
5 affairs of USAG?

6 A. John J. Cafaro.

7 Q. That would be J.J.?

8 A. Yes.

9 Q. And where were USAG's corporate offices located?

10 A. Manassas, Virginia.

11 Q. And where was J.J.'s office within the Cafaro
12 Company?

13 A. He was in Youngstown, Ohio.

14 Q. Once USAG was set up, where was J.J.'s main office?

15 A. He had offices in both locations. I don't know which
16 was his main -- whatever project he was working on, that
17 was probably the office he was in.

18 Q. Okay. So he continued to maintain an office in
19 Youngstown?

20 A. Yes, he did.

21 Q. And then he also had an office in USAG in Virginia?

22 A. Yes.

23 Q. Did he have houses at both places, do you know?

24 A. Yes, he does.

25 Q. Do you know how he would travel from one place to the

Rosselli - Direct/Morford

1 other?

2 A. By car, by plane. I believe he used both.

3 Q. When you say by plane, does the Cafaro Company have
4 their own jet?

5 A. Yes, they do.

6 Q. Now, are you familiar with a man named Rick Detore?

7 A. Yes.

8 Q. And who was Rick Detore?

9 A. He was the chief operating officer of USAG.

10 Q. And where was he located? Where was his office?

11 A. He was in Manassas, Virginia.

12 Q. You've talked about the role of J.J. Cafaro, and now
13 you talked about Rick Detore. Let me ask you this: What
14 role, if any, did Tony Cafaro play in the affairs of USAG?

15 A. None that I'm aware of.

16 Q. Was he involved in the decisions to fund USAG?

17 A. Yes.

18 Q. Was it ultimately up to him to continue how long to
19 continue funding USAG?

20 A. Yes, yes, it was.

21 Q. Now, did there ever come a time where a cap was
22 placed on the amount of money that the Cafaro Company would
23 be able to invest in this venture?

24 A. Yes. In early 1999, a cap was set at \$5 million.

25 Q. And why was the cap set on this investment?

Rosselli - Direct/Morford

1 A. Just to control it, to ensure that progress was being
2 made towards meeting their goals.

3 Q. What was the issue that the company put a cap of \$5
4 million on this investment? What were your concerns?

5 A. That it would just turn into another Avanti, you
6 know, excessive spending.

7 Q. Now, at the time that the decision was made to put a
8 \$5 million cap on the investment, how important was the
9 issue of certification on the company's willingness to
10 continue to invest funds in this venture?

11 A. It was -- you know, required. The \$5 million cap was
12 set and a deadline of June 15th, '98, was set, that they
13 had to have FAA certification by that day, or funding would
14 be stopped.

15 Q. So you're saying that the company was given what, an
16 ultimatum or a target?

17 A. A target.

18 Q. A target FAA certification by June, 1998, or what
19 would happen?

20 A. All funding would stop.

21 Q. Now, was this target communicated to J.J. Cafaro?

22 A. Yes.

23 Q. And can you tell us, as you approached June of 1998,
24 what was J.J. Cafaro communicating to you and Tony Cafaro
25 and other officials at USAG regarding his progress in

Rosselli - Direct/Morford

1 obtaining certification?

2 MR. TRAFICANT: Objection as to record only.

3 Q. And as I ask you that, I'm just asking you what he's
4 telling you in terms of --

5 MR. TRAFICANT: Objection as to record only.

6 THE COURT: You're talking across him, so I
7 can't hear or understand it. I can't hear both of you. So
8 what I'd like you to do is go on to something else, and
9 we'll take this up.

10 MR. MORFORD: Okay.

11 THE COURT: Congressman, don't talk while
12 people who are also speaking.

13 MR. TRAFICANT: I apologize.

14 THE COURT: Thank you, but you need to stop
15 doing it. Thanks.

16 BY MR. MORFORD:

17 Q. Turning to what's been put in front of you on the
18 stand, do you see an exhibit there marked 8-10?

19 A. Yes, I do.

20 Q. And can you tell us just generally what is this
21 document?

22 A. This is a memo that J.J. sent to Anthony Cafaro, Mark
23 Beck, and myself.

24 Q. And what is the date of this memoranda?

25 A. June 18th, 1998.

Rosselli - Direct/Morford

1 Q. And what was attached to this memoranda? You may
2 need to pull it out of the glassine there, if you would.

3 A. A news release from Congressman Jim Traficant.

4 MR. MORFORD: Your Honor, can I go ahead and
5 put this up on the screen?

6 THE COURT: Yes.

7 BY MR. MORFORD:

8 Q. I'd like to ask you if you could go ahead and read
9 the words that are on the screen or on the document, the
10 body of the document?

11 A. "The key to the attached news release is: Sets the
12 stage for next year's legislation for mandating its use.
13 This is an extremely big step."

14 Q. Okay. Without telling us what, if anything, was
15 done, if anything ever was done, could you just tell us
16 what J.J. Cafaro was telling you and Tony Cafaro and
17 corporate counsel as to what --

18 MR. TRAFICANT: Objection as to hearsay for
19 the record.

20 MR. MORFORD: Your Honor, this would be an
21 admission of a party opponent.

22 THE COURT: I think it probably will be.
23 Would you let him finish? He didn't finish his sentence.
24 Okay. Let him complete his sentence, Congressman. You can
25 proceed.

Rosselli - Direct/Morford

1 BY MR. MORFORD:

2 Q. What was your understanding of what J.J. Cafaro was
3 telling corporate officials that were funding this project
4 regarding what, if anything, Congressman Traficant was
5 promising to do for USAG regarding FAA certification?

6 MR. TRAFICANT: Objection for the record as
7 to speculation period.

8 THE COURT: Overruled. You may answer.

9 THE WITNESS: The purpose of this was to show
10 he's making progress.

11 Q. And who was he telling you was making progress for
12 him with respect to the issue of FAA certification?

13 A. Congressman Traficant.

14 Q. And what was the state of the Cafaro company's
15 financial commitment as to whether it was going to continue
16 to fund this venture on June 18th, 1998, when J.J. Cafaro
17 sent you this memorandum and the attached press release?

18 A. This was past the cutoff date that was set for having
19 FAA certification, and I don't think at this point the \$5
20 million was completely spent.

21 Q. How many days past the cutoff date was this?

22 A. Three days.

23 Q. How close was USAG at the point that J.J. Cafaro sent
24 you this memorandum to going over the \$5 million cap, as
25 you recall, approximately?

Rosselli - Direct/Morford

1 A. I believe they went over -- about a month away,
2 probably.

3 Q. If you could turn to Page 2 of this document, the
4 attached press release, do you see that?

5 A. Blank -- it's a blank page that says "news" at the
6 top.

7 Q. Yes.

8 A. Yes. Okay.

9 MR. TRAFICANT: I ask this be made a joint
10 exhibit.

11 THE COURT: Okay.

12 MR. TRAFICANT: All of 18.

13 THE COURT: Okay, Congressman.

14 Q. Can you tell us generally what this is just from the
15 caption, what does this appear to be?

16 A. It's a press release.

17 Q. And does it have a date?

18 A. Thursday, June 18th, 1998.

19 Q. Can you tell from the fax header when it was sent to
20 U.S. Aerospace Group?

21 A. The fax date appears to be June 18th, 1998.

22 Q. I'd like to ask you if you could read the little
23 paragraph there at the bottom of the page. Do you see
24 where I'm referring to?

25 A. Yes.

Rosselli - Direct/Morford

1 Q. Go ahead and read that?

2 A. "The U.S. Navy has tested enhanced vision
3 technologies and plans to deploy these technologies on its
4 aircraft carriers. The U.S. Park Police has had great
5 success with the cold cathode lights at its helicopter pad
6 in Washington, D.C. In addition, the FAA has been testing
7 and analyzing enhanced vision technologies for the past
8 several years."

9 Q. Let me stop you there and ask you: What are enhanced
10 vision technologies? That term keeps being referred to
11 here.

12 A. I believe it's any technology that makes landing with
13 lights easier in adverse weather conditions or -- like I
14 said, adverse weather conditions.

15 Q. Is that a description of the product that USAG was
16 attempting to get certification for and to market to U.S.
17 airports?

18 A. Yes, it is.

19 Q. If you'd turn to the second page of this press
20 release, in particular, the second paragraph, do you see
21 that it starts "These technologies."

22 A. Yes, I do.

23 Q. Could you go ahead and read that -- in fact, read --
24 yeah, just read that paragraph for now if you could?

25 A. "These technologies, especially laser guidance

Rosselli - Direct/Morford

1 systems and cold cathode lights have been extensively
2 tested. They work, and they work well, observed Traficant.
3 They are also cheaper to maintain than conventional
4 lighting. For example, cold cathode lights have a life
5 time cost of only 20 percent of that of incandescent lights.
6 It's time for the FAA to expedite its analysis and certify
7 these technologies."

8 Q. Okay. There's something there that says these
9 technologies especially laser guidance technologies and
10 cold cathode lights have been extensively tested. Do you
11 see that sentence?

12 A. Yes.

13 Q. What are cold cathode lights, do you know?

14 A. I believe they're lights that they use to highlight
15 the perimeter of a landing area.

16 Q. And who had the patent rights and the rights to
17 market the laser guidance systems and cold cathode lights
18 as you understood it?

19 A. The laser guidance assigned to USAG, the cold
20 cathode. I'm not sure about.

21 Q. Okay.

22 There's a line at the end of that paragraph that says
23 "it's time for the FAA to expedite its analysis and certify
24 these technologies."

25 How important was it for you at the Cafaro Company to

Rosselli - Direct/Morford

1 know that Congressman Traficant was issuing a press release
2 calling for the FAA to expedite certification of USAG's
3 technology at this point on June 18thth, 1998?

4 A. This would have been very important because it would
5 have continued funding by the Cafaro Company, because it
6 showed progress was being made.

7 Q. And if you could drop down and read the very last
8 paragraph?

9 A. "Traficant said it's blank, he will work next year
10 to pass legislation requiring U.S. airports to install
11 enhanced vision technologies to replace or enhance
12 conventional landing lights systems over a ten-year
13 period."

14 Q. How important was it to the Cafaro Company to know
15 that Congressman Traficant was promising to work during the
16 next year to pass legislation requiring U.S. airports to
17 install this technology over a ten-year period?

18 A. It was very important. Once again, it supported that
19 progress was being made.

20 Q. Did there come a time when USAG reached a \$5 million
21 cap?

22 A. Yes, they did.

23 Q. How long after this was sent on June 18th, 1998, was
24 it approximately before USAG ran out of money, hit the \$5
25 million cap?

Rosselli - Direct/Morford

1 A. I believe it was the next month.

2 Q. What, if any, discussions do you recall at that time
3 when the \$5 million cap ran out?

4 A. When the \$5 million cap ran out, Anthony Cafaro did
5 not want to invest any more company funds. So to continue,
6 J.J. Cafaro personally borrowed \$2.5 million from some
7 family trusts.

8 Q. And who had to approve for J. J. Cafaro to borrow
9 \$2.5 million from Cafaro family trusts?

10 A. Anthony Cafaro had to approve them.

11 MR. TRAFICANT: I didn't hear that.

12 THE WITNESS: Anthony Cafaro.

13 Q. Now, how were you at the Cafaro Company to process
14 draws upon the \$2.5 million line of credit once the \$5
15 million cap had been hit?

16 A. We were basically just processing checks for them.
17 If invoices came through, as long as they were approved by
18 J.J. Cafaro, we would process it and issue a check to pay
19 it.

20 Q. Okay. So as far as USAG expenses, if USAG had an
21 expense, who had to actually sign and approve the expense
22 as you understood it?

23 A. J.J. Cafaro had to approve it.

24 Q. And then once he approved the expense, who would it
25 get sent to to process?

Rosselli - Direct/Morford

1 A. It would be sent to my department, and we would issue
2 a check, and sign it.

3 Q. And off whose account would you issue these checks?

4 A. They would be charged against the \$2.5 million.

5 Q. But in terms of an entity, was this coming off of a
6 Cafaro Company check or Cafaro Laser checks, or don't you
7 know?

8 A. All checks are issued off the Cafaro Company, but
9 they're charged against Cafaro Laser. It was loaning money
10 to USAG.

11 Q. How long a period did the \$2.5 million last?

12 A. The \$2.5 million expired on January, 1999.

13 Q. And once the \$2.5 million expired in January '99,
14 what request was made as to additional funding?

15 A. At that time, I don't believe there was any
16 additional requests. At that time, J.J. began paying USAG
17 bills just out of his personal account.

18 Q. And when he began paying USAG personal bills out of
19 his personal account, did that cause any problems for the
20 Cafaro Company?

21 A. The only problem it caused was when he was making --
22 paying payroll to his personal accounts.

23 Q. And what kind of problem did that cause?

24 A. He was issuing checks for just the net payroll and
25 was not withholding or remitting to the Government payroll

Rosselli - Direct/Morford

1 taxes.

2 Q. When an employer makes paychecks payable to
3 employees, in addition to giving a check to the employee,
4 what else does the employer have to do?

5 A. The employer has to submit the withheld taxes to the
6 Government.

7 Q. And if the employer fails to do that, what happens?

8 A. There's severe penalties.

9 Q. You said J.J. Cafaro was paying the employees out of
10 his personal account, correct?

11 A. That's correct.

12 Q. And then what was the issue that you saw as a problem
13 for your company?

14 A. I was concerned that since those employees were
15 listed on the payroll of the Cafaro Company, that the
16 Cafaro Company would be responsible for those penalties and
17 those taxes.

18 Q. And as a result of that, what did you do?

19 A. I met with Anthony Cafaro and expressed my concern
20 about the issue and was able to convince him that we should
21 continue to fund just enough to pay the payroll taxes.

22 Q. Now, did there ever come a time where there was a
23 discussion of a loan from Bank One?

24 A. Yes.

25 Q. Can you explain that to the jury?

Rosselli - Direct/Morford

1 A. At the time that J.J. was funding it out of his
2 personal account, he obtained a \$900,000 loan from Bank
3 One.

4 Q. And did anyone have to co-sign for J.J. Cafaro to get
5 that \$900,000 loan?

6 A. Anthony Cafaro signed as a guarantor of that loan.

7 Q. Why was it necessary for Anthony Cafaro to sign as a
8 guarantor of the \$900,000 loan to J.J. Cafaro?

9 A. J.J. did not have the credit quality to obtain a loan
10 like that.

11 Q. How long did the \$900,000 loan or line of credit from
12 Bank One last, as you understood it?

13 A. That lasted two months.

14 Q. And then what happened after that loan was exhausted?

15 A. J.J. continued to fund out of his personal account.

16 Q. Okay. Now, you said initially there was a \$2 million
17 loan from the Cafaro Company, correct?

18 A. Correct.

19 Q. And then you said there was a \$5 million cap of
20 investment that was reached; is that correct?

21 A. Correct.

22 Q. Did that \$5 million include the \$2 million original
23 loan, or was that in addition to the \$2 million loan?

24 A. I believe that included the original \$2 million.

25 Q. So there's basically \$5 million total invested up to

Rosselli - Direct/Morford

1 that point, correct?

2 A. Yes.

3 Q. And then you said an additional \$2.5 million?

4 A. Yes.

5 Q. And that was borrowed from Cafaro family trusts?

6 A. Correct.

7 Q. And then you said there was a loan from Bank One for
8 \$900,000?

9 A. Correct.

10 Q. And then you said J.J. paid some money from his own
11 personal funds, correct?

12 A. That's correct.

13 Q. Did there come a time when you all at the Cafaro
14 Company just pulled the plug on all further financing of
15 this venture?

16 A. Yes, they did. January 1st, 2000, we discontinued
17 all activity with -- there was one additional funding that
18 Anthony Cafaro approved for \$800,000 that would be paid out
19 over the next four months.

20 Q. Okay. How did that \$800,000 finally come about?

21 A. Capri Cafaro met with Tony Cafaro and convinced him
22 to give him one last chance.

23 Q. And who is Capri Cafaro?

24 A. That's J.J. Cafaro's daughter.

25 Q. And what was her connection to USAG as you under

Rosselli - Direct/Morford

1 stood it?

2 A. She worked for USAG. I'm not sure what capacity.

3 Q. Did Cafaro Company give USAG that one last \$800,000
4 funding?

5 A. Yes, it did.

6 Q. After that, did Cafaro Company make any additional
7 funding whatsoever to this company?

8 A. Only nominal items that were on order that we had to
9 pay.

10 Q. Now, at the time that the Cafaro Company puts in this
11 last \$800,000 funding payment, had USAG obtained FAA
12 certification as of that point in January 2000?

13 A. No, they had not.

14 Q. Do you know through your position as a certified --
15 or as the chief financial officer and the treasurer of the
16 Cafaro Company when you include the original \$5 -- for the
17 original \$5 million investment, \$2.5 line of credit,
18 \$900,000 line of credit, the \$800,000 amount at the end and
19 money that J.J. Cafaro personally put in, do you have a
20 ball park of how much the Cafaro Company actually invested
21 in this venture?

22 A. It was in excess of \$10 million.

23 Q. And in the final analysis, did either of the Cafaro
24 Company or J.J. Cafaro or any member of the Cafaro Company
25 make any money on this venture?

Rosselli - Direct/Morford

- 1 A. No, they did not.
- 2 Q. Did they lose money on this venture?
- 3 A. Yes, they did.
- 4 Q. Approximately how much did they lose in this venture?
- 5 A. They lost over \$10 million.
- 6 Q. And what ultimately happened to USAG?
- 7 A. It's now defunct.
- 8 Q. To your knowledge, did USAG ever obtain FAA
- 9 certification for this technology?
- 10 A. Not to my knowledge.
- 11 Q. Now, I'd like to ask you some questions about USAG's
- 12 involvement with the boat. Okay?
- 13 A. Okay.
- 14 Q. Did there ever come a time when you learned that USAG
- 15 had some type of involvement with a boat?
- 16 A. Yes, I did.
- 17 Q. And how did you first come to learn that USAG was
- 18 involved in some way with a boat?
- 19 A. Someone brought to my attention a repair bill.
- 20 Q. And what was there about the repair bill that caught
- 21 your eye?
- 22 A. Actually, it was just -- I was questioning whether it
- 23 was a personal expenditure of J.J.'s or was it a USAG
- 24 expense.
- 25 Q. And why was that significant to you in your position

Rosselli - Direct/Morford

1 in the Cafaro Company?

2 A. Just to make sure that the proper entities were
3 charged for the expenditure. If it was an expense of
4 J.J., his personal boat. We would have charged J.J.
5 personally for the expenditure. If it's a business expense
6 of USAG, we would have charged USAG.

7 Q. Now, you said J.J.'s personal boat. Were you aware
8 that J.J. had a boat?

9 A. Yes.

10 Q. And what kind of boat did he have?

11 A. It was a large 110-foot boat. I'm not sure of the
12 proper description of it would be.

13 Q. A yacht?

14 A. Yes, I guess.

15 Q. To your knowledge, was it a wooden boat or fiber
16 glass boat, do you know?

17 A. It was a wooden boat.

18 Q. And to your knowledge, had there been large expenses
19 incurred in the maintenance of that wooden yacht?

20 A. Yes, there were.

21 Q. Now, when you saw that there was an expense coming
22 through for -- what did you say, boat repairs?

23 A. That's correct.

24 Q. What did you do to determine whether or not this was
25 actually a business expense of USAG versus a personal

Rosselli - Direct/Morford

1 expense of J.J. trying to repair his own personal yacht?

2 A. I don't recall exactly how I got the information, but
3 I understood it was repair for the USAG.

4 Q. At the time that you were trying to determine that
5 this was actually a business expense of USAG, were you ever
6 told of any connection between the boat USAG was claiming
7 expenses to repair and Congressman Traficant?

8 A. No, I was not.

9 Q. Turning your attention to a group of exhibits -- and
10 again, if you could take them out of the glassine --
11 labeled 8-21, do you see that in front of you?

12 A. Yes, I do.

13 Q. Generally, can you describe what that is?

14 A. It's a memorandum from J.J. Cafaro to me. It's a
15 request for a \$3,000 check payable to Al Lange for
16 expenses.

17 Q. Okay.

18 MR. MORFORD: Your Honor, may I put this up
19 on the board?

20 THE COURT: Yes.

21 MR. TRAFICANT: I ask it be made a joint
22 exhibit.

23 Q. What's the date of this memorandum?

24 THE COURT: What's the number, please?

25 MR. MORFORD: Exhibit 8-21.

Rosselli - Direct/Morford

1 THE COURT: Okay. It can be joint.

2 MR. MORFORD: I'm sorry?

3 THE COURT: He asked it be a joint exhibit.

4 MR. MORFORD: Thank you, your Honor.

5 BY MR. MORFORD:

6 Q. What's the date of this joint exhibit?

7 A. The date is September 10, 1998.

8 Q. And again, it's addressed to whom from whom?

9 A. It's addressed to me from J.J. Cafaro.

10 Q. And it says regarding -- can you tell us what it's
11 regarding?

12 A. U.S. Aerospace Group/Cafaro Laser, Limited, Al Lange.

13 Q. Can you read the sentences that follow, just one
14 sentence?

15 A. "Please issue a check in the amount of \$3,000 payable
16 to Al Lange for expenses."

17 Q. If you could read the whole --

18 A. "I will explain to you in full at a later time.

19 Please overnight this check to Al Lange to the U.S.

20 Aerospace address. Thank you."

21 Q. Now, did you actually issue the check?

22 A. Yes, we did.

23 Q. And did J.J. ever explain to you the nature of that
24 check that was issued based on his request in this memo to
25 Al Lange for expenses regarding U.S. Aerospace Cafaro

Rosselli - Direct/Morford

1 Laser?

2 A. No, he did not.

3 Q. The second page of this exhibit, do you see the check
4 there?

5 A. Yes, I do.

6 Q. And is that the check that was issued at the request
7 of J.J. Cafaro in the memo?

8 A. Yes, it is.

9 Q. And who was the check made payable to?

10 A. Al Lange.

11 Q. Now, what, if any, problems did it cause you in your
12 tax accounting department by the fact that although J.J.
13 Cafaro had said that he would tell you what this was for at
14 a later time, that he never told you what it was for?

15 A. We had no expenses -- I'm sorry -- we had no receipts
16 to go with it.

17 Q. Okay. And what problem -- what, if any, problem did
18 that cause for you?

19 A. To substantiate the deductibility of expense.

20 Q. Okay. Explain that to the jury a little bit what you
21 mean by that. What's the issue? You've got a \$3,000 check
22 to Al Lange, correct?

23 A. That's correct.

24 Q. And you said you don't have any substantiation as to
25 what that was a payment for, correct?

Rosselli - Direct/Morford

1 A. That's correct.

2 Q. And what do you need to determine for tax purposes at
3 the end of the year as the Cafaro Company tax accounting
4 people?

5 A. We need to identify whether it's a deductible expense
6 or not.

7 Q. What if it's not a business expense? It's just a
8 check to Al Lange. How do you have to treat it?

9 A. It would be treated as compensation to Al Lange.

10 Q. What would you do then at the end of the year with
11 respect to that \$3,000? Would you have to issue any forms?

12 A. Yes. We would issue either a 1099, or we would
13 include it in his W-2.

14 Q. If you issue a 1099, what is that, and what is that
15 set in motion?

16 A. A 1099 is an Internal Revenue Service form that one
17 copy goes to the recipient, which would be Al Lange, and
18 one copy goes to the Internal Revenue Service to ensure
19 that Al Lange reports it as taxable income on his tax
20 return.

21 Q. If you fill out a 1099 form for \$3,000 for Al Lange
22 and send it to the IRS, what are you telling the IRS about
23 that \$3,000?

24 A. That it's taxable income to Al Lange.

25 Q. I'd like to ask you to turn your attention to Exhibit

Rosselli - Direct/Morford

1 8-22. Do you see that in front of you?

2 A. Yes, I do.

3 Q. And can you tell us what this particular document is?

4 A. This is a memorandum from Jeff Siweck, one of our
5 internal auditors, to Jennie Heinselman, requesting
6 information regarding check 86997 to Al Lange.

7 Q. And who is J.J. Heinselman?

8 A. That's J.J. Cafaro's secretary.

9 Q. Is this Jeff Siweck someone that worked under your
10 direction?

11 A. Yes, he did.

12 Q. And is this a document that was prepared and
13 maintained in the ordinary course of the tax accounting
14 business practices of the Cafaro Company?

15 A. When we're requesting internal information or
16 information from another department, yes, it is.

17 Q. And this is a record that you maintain, correct?

18 A. Yes.

19 MR. MORFORD: Your Honor, may I put this on
20 the overhead?

21 THE COURT: Yes.

22 Q. What is the topic? What is this particular memo
23 regarding?

24 A. He's requesting copies of the receipts to support the
25 \$3,000 check to Al Lange.

Rosselli - Direct/Morford

1 Q. Could you go ahead and just read that -- the two
2 sentences that make up that paragraph, please?

3 A. "I am currently processing 1099 forms. I came
4 across this payment for expenses and discovered no receipts
5 attached. If receipts cannot be produced to back up this
6 expense check, we will be required to send a 1099
7 miscellaneous form to Al Lange."

8 Q. And if you could turn to the final document, there's
9 five documents attached to that exhibit. The final one,
10 you see that where it says substitute form 1099
11 miscellaneous up there at the top?

12 A. Yes, I do.

13 Q. Would you tell us what that is?

14 A. That's the 1099, a copy of which is sent to Al Lange
15 and a copy to the Internal Revenue Service.

16 Q. Okay.

17 So in the end, you sent a 1099 to the IRS telling
18 them what about this \$3,000 check?

19 A. That this was taxable income to Al Lange.

20 Q. And you sent a 1099 to the IRS saying this was
21 taxable income to Al Lange. Why?

22 A. Because we did not have any substantiation or
23 receipts to support it.

24 Q. So you couldn't treat it as a business expense of
25 USAG, correct?

Rosselli - Direct/Morford

1 A. That's correct.

2 Q. After that 1099 was issued, did you receive some
3 memoranda from people involved with USAG?

4 A. Could you repeat the question?

5 Q. After the 1099 was issued to the IRS, did there come
6 a time where you received some memoranda about that issue
7 from some of the people running USAG?

8 A. I believe there was a memo from J.J. Cafaro.

9 Q. Okay. Taking a look at what's in front of you, 8-26,
10 do you see that?

11 A. Yes, I do.

12 Q. And is this a -- again a document that was made and
13 maintained in the ordinary course of business of the Cafaro
14 Company?

15 A. Yes, it is.

16 MR. MORFORD: May I put it on the overhead,
17 your Honor?

18 THE COURT: Yes.

19 Q. Turning to Government's Exhibit 8-26, what is the
20 date of this particular memoranda?

21 A. March 30, 1999.

22 Q. And could you go ahead and read the two paragraphs
23 there, please?

24 A. "Relative to the 1099's sent to the Internal Revenue
25 Service for Richard Detore in the amounts of \$16,572 and Al

Rosselli - Direct/Morford

1 Lange in the amount of \$3,000, please be advised that those
2 1099s are in error.

3 "It was my mistake. They were for expenses and
4 should not have been put on a 1099. Please correct your
5 accounting records accordingly."

6 Q. As a result of this memorandum, what, if anything,
7 did the tax accounting department do?

8 A. They voided out the previously issued 1099.

9 MR. TRAFICANT: I ask this be made a joint
10 exhibit.

11 THE COURT: All right.

12 Q. How did you end up treating it?

13 THE COURT: Congressman, the one on the
14 board, this one?

15 MR. TRAFICANT: Yes.

16 THE COURT: Okay.

17 MR. TRAFICANT: No, the one -- that one right
18 there.

19 THE COURT: Okay.

20 MR. MORFORD: That would be 8-26.

21 THE COURT: Yes, 8-26.

22 Q. How did you ultimately then end up treating the
23 \$3,000 payment the Cafaro Company had made to Al Lange at
24 J.J. Cafaro's request?

25 A. As a business expense of USAG.

Rosselli - Direct/Morford

1 Q. Turning your attention to 8-27, what is that?

2 A. That's a copy of the previously issued 1099 with a
3 note indicating that it was corrected, shows zero for the
4 instructions from the memo from J. J. Cafaro to me.

5 Q. Would the 1099 have been reversed, and would you have
6 treated this as a \$3,000 business expense of USAG if, in
7 fact, this was income payable to Al Lange?

8 A. No.

9 Q. Could you have treated this as a business expense of
10 USAG instead of income to Al Lange if, in fact, the \$3,000
11 had been given to Al Lange personally to buy or repair his
12 own personal boat that he owned?

13 A. It would have been a taxable income to Al Lange.

14 MR. TRAFICANT: Could you repeat the
15 question?

16 THE COURT: I'll read it. Could you have
17 treated this as a business expense of USAG instead of
18 income to Al Lange if, in fact, the \$3,000 had been given
19 to Al Lange personally to buy or repair his own personal
20 boat that he owned? That was the question.

21 Q. So as of March 30, 1999, what were you being told
22 this \$3,000 was?

23 A. It was a business expense of USAG.

24 Q. Finally, I'd like to turn your attention to what's
25 been marked 8-65. Do you see that exhibit?

Rosselli - Direct/Morford

1 A. Yes, I do.

2 Q. And again could you take those out of the glassine?
3 And starting with the first two pages of that exhibit, can
4 you tell us what those are?

5 A. The first two pages are copies of W-2 forms for
6 Al Lange for the years 1997, 1998 and 1999.

7 Q. And are these documents that were prepared by the
8 Cafaro Company tax accounting office under your overall
9 supervision?

10 A. Yes.

11 Q. And are these business records of the Cafaro Company?

12 A. Yes, they are.

13 Q. And do these summarize the income that was paid to
14 Al Lange during the years 1997, 1998, and 1999?

15 A. Yes, they do.

16 Q. Now, the next three pages after that, can you take a
17 look at those and describe what those are?

18 A. Those are the -- it's the detail of each payroll
19 check that was paid to Al Lange.

20 Q. And are these business records that were made and
21 maintained by the Cafaro Company in the ordinary course of
22 its business?

23 A. Yes, they are.

24 MR. MORFORD: Your Honor, may I place these
25 on the overhead?

Rosselli - Direct/Morford

1 THE COURT: Yes.

2 BY MR. MORFORD:

3 Q. Starting with the first page there, do you see that?

4 A. Yes.

5 Q. Can you tell us -- let's start with the first two
6 entries, what does that depict?

7 A. That's the paycheck for the check for the period
8 ending -- check date 10-15-97 in the amount of \$1,230.77,
9 and the second check is dated 10-29-97 for \$3,076.94.

10 Q. Okay. And then from there on, there appears to be
11 two checks each month in the amount of \$3,076.94?

12 A. Yes, it's every two weeks.

13 Q. Every two weeks. Is that what the payroll system was
14 for USAG as you understood it?

15 A. Yes.

16 Q. Turning to the second page, there comes a time where
17 \$3,076.94 apparently stops and picks up with a larger
18 number \$4,038.48. Do you see that?

19 A. Yes, I do.

20 Q. And what do those amounts represent, as you
21 understand it?

22 A. It's the same thing. It's payroll checks.

23 Q. Turning to the last page, the month of May, do you
24 see that?

25 A. Yes, I do.

Rosselli - Direct/Morford

1 Q. And in the month of May, there are two entries,
2 \$4,038.48. Do you see that?

3 A. Yes, I do.

4 Q. But on May 12, 1999, in addition to the normal entry
5 of \$4,038.48, there's also an item \$30,000, do you see
6 that?

7 A. Yes, I do.

8 Q. Is that \$30,000 income to Al Lange?

9 A. Yes, it is.

10 Q. What kind of income is listed on this printout?

11 A. Taxable income.

12 Q. And what would that include, what types of income?

13 A. Include regular payroll, regular compensation, and
14 bonuses.

15 Q. To the best of your knowledge, what does the \$30,000
16 represent?

17 A. A bonus.

18 MR. TRAFICANT: I ask it be a joint exhibit.

19 THE COURT: Okay. There are quite a few
20 pages there, Exhibit 8-65.

21 MR. MORFORD: May I have just a moment, your
22 Honor?

23 THE COURT: Yes.

24 MR. MORFORD: I have no further questions.

25 THE COURT: Thank you. Congressman, it's

Rosselli - Cross

1 3:00. Shall we take a break before you start?

2 MR. TRAFICANT: I recommend it.

3 THE COURT: Okay. We'll do it. About a half
4 hour break. See you back at 3:30.

5 (Thereupon, a recess was taken.)

6 THE COURT: Sir, you're still under oath.

7 CROSS-EXAMINATION OF DOMINIC ROSSELLI

8 BY MR. TRAFICANT:

9 Q. Good afternoon, Dominic.

10 A. Good afternoon.

11 Q. If my voice is loud, I'm hoarse, and if I talk soft,
12 you won't hear me.

13 A. Okay.

14 Q. I have to ask, are you related to Coach Dom Rosselli?

15 A. Yes, I am.

16 Q. Dominic is your dad?

17 A. Yes, he is.

18 Q. Now, I notice you didn't testify before the Grand
19 Jury, Chip.

20 A. That's correct.

21 Q. And you're the chief financial officer and treasurer
22 of the Cafaro Corporation, right?

23 A. That's correct.

24 Q. Is that since January of '97?

25 A. Yes, it is.

Rosselli - Cross

1 Q. Your background is taxes and tax accounting?

2 A. Yes, it is.

3 Q. Now, when you said Cafaros were listed as Number 11,
4 was that Number 11 as a private company?

5 A. That's Number 11 among public and private companies.

6 Q. They're very big, aren't they?

7 A. Yes, they are.

8 Q. Do they have malls in the Cleveland area?

9 A. No, they do not.

10 Q. Do they have malls throughout Ohio?

11 A. Yes.

12 Q. And several other states, correct?

13 A. That's correct.

14 Q. And their basic business is real estate and marketing
15 of real estate?

16 A. That's correct, owning and operating shopping
17 centers.

18 Q. You said you were responsible for revenue and
19 expenses, correct?

20 A. That's correct.

21 Q. You're responsible for billing?

22 A. Yes.

23 Q. You're responsible for collection of rent?

24 A. That's correct.

25 Q. And also, you said for collection of cash for rent?

Rosselli - Cross

1 A. That's correct. What I meant was, as rent comes in,
2 we -- it's the handling of not cash in its physical sense
3 but cash in the sense that it's money in bank accounts, not
4 physical.

5 Q. Any of your tenants pay you cash?

6 A. On occasion.

7 Q. Do you have a special account for cash?

8 A. Cash goes into the regular account. We just have one
9 account.

10 Q. You do not delineate and separate a separate ledger
11 showing which firms pay cash and how much cash is received
12 when you do your annual report?

13 A. No, we do not.

14 Q. Isn't it a fact that Mr. Bill Cafaro was maybe one of
15 the great founders of our Valley?

16 A. I would agree with that.

17 Q. He didn't found it, but he was one of the big
18 promoters of it and always kept his company there; is that
19 correct?

20 A. That's correct.

21 Q. Now, after he died in '98, there was a new structure
22 set up; is that correct?

23 A. I believe it was just a continuation of the existing
24 structure.

25 Q. Well, were there officers in the Cafaro Company

Rosselli - Cross

1 structure?

2 A. Yes.

3 Q. It was not a corporation, was it?

4 A. No. The Cafaro Company is a corporation.

5 Q. But it was not publicly traded?

6 A. That's correct.

7 Q. And it's privately owned?

8 A. That's correct.

9 Q. And all the stock is owned by whom?

10 A. Cafaro family members. I don't recall exactly who
11 the owners are. It's all Cafaro family members or trusts
12 for their benefit.

13 Q. Who owns the most shares of the of this stock?

14 A. Of the Cafaro Company itself or all the real estate
15 holdings?

16 Q. Of the entire Cafaro Company holdings.

17 A. There's probably three trusts that hold the bulk of
18 the assets.

19 Q. Are there shares of stock in this corporation?

20 A. Yes, there are.

21 Q. Are there three different corporations?

22 A. When you say the corporation, are you referring to
23 the three trusts?

24 Q. I'm referring to the corporation. Is there one
25 corporation with three trust accounts?

Rosselli - Cross

1 A. No, there are not. There are multiple corporations
2 that make up all the Cafaro companies. Generally, when a
3 property is developed, each individual property forms a
4 separate entity.

5 Q. Do they issue stock in each of those?

6 A. If it's a corporation, yes, they do.

7 Q. Who owns the bulk of the stock in those -- the bulk
8 of the stock?

9 A. Probably the Marian, three Marian trusts.

10 Q. Would you say that again?

11 A. There's three trusts known as the -- we refer to them
12 as the Marian Trust or the William M. Cafaro Trust for the
13 benefit of Anthony Cafaro, and the second trust, William M.
14 Cafaro, trust for the benefit of John J. Cafaro, and a
15 third trust, William M. Cafaro for the benefit of Flora M.
16 Cafaro. We refer to them as the Marian Trust.

17 Q. All right. Now, are there three major office holders
18 in this corporation?

19 A. In the Cafaro Company? There's the normal string of
20 officers.

21 Q. Who are they?

22 A. The president of the Cafaro Company is Anthony
23 Cafaro. There are multiple vice-presidents. I'm the
24 treasurer-chief financial officer. The secretary, I
25 believe is Tim Matune. Flora Cafaro is a vice-president

Rosselli - Cross

1 and assistant treasurer. I don't recall who the other
2 officers are.

3 Q. Do you own stock?

4 A. No, I do not.

5 Q. Who owns the stock?

6 A. Of the Cafaro Company itself? I don't recall who
7 owns that particular stock.

8 Q. Well, you said Anthony was the boss, didn't you?

9 A. Yes, I did.

10 Q. Did they just pick straws, or how did he become the
11 boss?

12 A. Just by virtue of being the oldest brother, and
13 Mr. Cafaro trusted him with running the family business.

14 Q. So then there was an estate of Mr. Cafaro?

15 A. That's correct.

16 Q. And the estate delineated carefully the future
17 management of the Cafaro Company?

18 A. I don't know if it was the estate that delineated
19 that or just among the family members, if it was determined
20 that Tony was the -- to run the company.

21 Q. Could Tony fire Flora?

22 A. I believe he could.

23 Q. And who was Flora?

24 A. Flora is his sister.

25 Q. Could Tony fire J.J.?

Rosselli - Cross

1 A. I believe he could.

2 Q. Was J.J. his brother?

3 A. That's correct.

4 Q. Now, there were real estate developers, and Tony was
5 the boss, right?

6 A. That's correct.

7 Q. Totally family-owned, right?

8 A. There were two entities, which had outside partners,
9 was a joint venture with other developers. But for the
10 most part, all the other entities are 100 percent
11 family-owned.

12 Q. Who were the other two ventures?

13 A. Kentucky Oak Mall in Paducah, Kentucky and Governor
14 Square Mall in Tennessee.

15 Q. But these were in line with the business activities
16 that the Cafaros were known for; is that correct?

17 A. That's correct.

18 Q. They were, in fact, large shopping malls; is that
19 correct?

20 A. That's correct.

21 Q. Didn't the Cafaro Company engage in financing a
22 project called Avanti?

23 A. Yes, it did.

24 Q. Did Avanti have anything to do with real estate?

25 A. No, it does not.

Rosselli - Cross

1 Q. What is Avanti?

2 A. Avanti was a company that attempted to build sports
3 cars based on a GM chassis.

4 Q. Do you know if the Cafaros invented the Avanti or if
5 they bought the rights to the Avanti?

6 A. I believe they bought the rights to the Avanti.

7 Q. Who did they buy them from?

8 A. I'm not sure of the exact transaction, but I -- I
9 know there was a gentleman named -- his name was Kell that
10 was involved in the business.

11 Q. When Avanti was purchased, was Mr. Cafaro, William
12 Cafaro still alive?

13 A. Yes, he was.

14 Q. So therefore, he had approved of the purchase?

15 A. That's true.

16 Q. Were you treasurer at that time?

17 A. No, I was not.

18 Q. Now, you say Avanti lasted from '86 to '91; is that
19 correct?

20 A. That's correct.

21 Q. You know how many total cars they produced?

22 A. No, I do not.

23 Q. In your capacity, did you do audits?

24 A. In my individual capacity? No, I did not.

25 Q. Did you have a staff that would do audits on mall

Rosselli - Cross

1 activity and other activity?

2 A. On mall activity, yes, we had a stack.

3 Q. So Avanti was just like -- like a sideline type
4 thing?

5 A. It was an outside investment.

6 Q. Was Cafaro company's money used in Avanti?

7 A. Yes.

8 Q. Who financed Avanti?

9 A. J.J. Cafaro did.

10 Q. And he put all the money into it?

11 A. Yes, he did.

12 Q. Where did he get the money from?

13 A. Borrowing it from the Cafaro Company.

14 Q. Who would have had to approve that?

15 A. William Cafaro was alive at the time. I assume he
16 and Tony would have approved that.

17 Q. You said he and Tony?

18 A. William Cafaro and Tony, I assume, would have both
19 approved that.

20 Q. Wasn't it a fact that William Cafaro, Senior was
21 grooming Anthony to take over the company?

22 A. I believe that to be true.

23 Q. Did the brother, J.J. and sister Flora, understand
24 that?

25 A. I believe so.

Rosselli - Cross

1 Q. Now, you say there was a \$26 million investment in
2 Avanti, correct?

3 A. That's correct.

4 Q. And they lost \$26 million in Avanti?

5 A. That's correct.

6 Q. Who lost the \$26 million?

7 A. J.J. Cafaro did.

8 Q. Did J.J. Cafaro have all the \$26 million in it?

9 A. Yes.

10 Q. Where did he get it from?

11 A. He sold some of his ownership interest in various
12 real estate entities in order to pay for that.

13 Q. Did Bill Cafaro and the Cafaro Company absorb any of
14 the Avanti loss?

15 A. Not that I'm aware of.

16 Q. You were not treasurer at the time?

17 A. That's correct, I was not.

18 Q. But you did work in their tax department at the time?

19 A. That's correct.

20 Q. Did you file the tax returns for Avanti?

21 A. No, I did not.

22 Q. Did they have their own system of accounting?

23 A. Yes, they did.

24 Q. Did they report to Mr. Cafaro?

25 A. I assume they did. I don't know that, though.

Rosselli - Cross

1 Q. What's the normal investment in one of the standard
2 sized malls that the Cafaros built?

3 A. It could range based on the size of the mall. It
4 could be \$30 million to \$80 million.

5 Q. Now, you say that after Avanti, J.J. left briefly in
6 about 1989?

7 A. That's correct.

8 Q. And then he returned in 1992 as a part-time
9 consultant?

10 A. That's correct.

11 Q. When did Mr. Bill Cafaro pass?

12 A. April 1998.

13 Q. Did J. J. Cafaro and his father have any problems?

14 A. I don't know that as a fact.

15 Q. Then he became full-time in 1995 you said, right?

16 A. That's correct.

17 Q. Was J.J. Cafaro an employee of the Cafaro Company?

18 A. Yes.

19 Q. Was Anthony Cafaro an employee of the Cafaro Company?

20 A. Yes.

21 Q. And they received salaries?

22 A. That's correct.

23 Q. And benefits?

24 A. That's correct.

25 Q. Now, in 1996, the laser technology was brought to the

Rosselli - Cross

1 attention of the Cafaro Company; is that correct?

2 A. Yes, it was.

3 Q. And Mr. William Cafaro was still alive, was he not?

4 A. That's correct.

5 Q. Is it your testimony that J.J. suggested they go
6 forward, that it was an exciting new venture?

7 A. Yes.

8 Q. Did the company consult with any engineers and/or
9 outside consulting firms to, in fact, document that this
10 laser technology had a future?

11 A. Not that I'm aware of on a formal basis.

12 Q. Were you treasurer at that time?

13 A. He -- when it first came in 1996, no, I was not.

14 Q. When did you become the treasurer?

15 A. January 1st, 1997.

16 Q. Now, on January 1st of 1997, was the laser technology
17 a topic of discussion in the Cafaro family?

18 A. Yes, it was.

19 Q. Was it a big discussion?

20 A. Yes.

21 Q. Wasn't it a fact that it was a deviation from their
22 normal investment?

23 A. That's correct.

24 Q. Now, when you were the treasurer, did you suggest to
25 the company that they, in fact, hire consultants and to

Rosselli - Cross

1 research the potential of this product?

2 A. Yes. Suggestions were made for feasibility studies,
3 that's correct.

4 Q. Did you do feasibility studies?

5 A. Not that I'm aware of.

6 Q. Did you make your representations in writing?

7 A. No, I do not believe so.

8 Q. Who did you make your recommendation to?

9 A. J.J. Cafaro and Anthony M. Cafaro.

10 Q. Well, did J.J. have any real say?

11 A. Yes. This was his project. Yes, he did.

12 Q. Did he have the money to finance it?

13 A. He had -- when funds were low, he had to borrow the
14 money to finance it.

15 Q. Who did he borrow from?

16 A. He borrowed it from family trusts.

17 Q. The family trust?

18 A. Various family trusts, yes. There were three trusts
19 that lent him the money.

20 Q. Who ultimately controlled the family trust?

21 A. I believe Anthony M. Cafaro was the trustee of those
22 trusts, although I'm not sure of that.

23 Q. Why did Anthony have to approve everything all the
24 time?

25 A. He controlled the business and what investments they

Rosselli - Cross

1 made.

2 Q. Chip, was Anthony Cafaro the boss or not?

3 A. Yes, he was the boss.

4 Q. Fine.

5 Now, at some point, you said J.J. was, to quote
6 unquote, lobby the Government; is that correct? Remember
7 the question by the Prosecutor?

8 A. Yes, I do.

9 Q. What does lobby mean?

10 A. To negotiate for a favorable outcome.

11 Q. Pardon?

12 A. To negotiate for a favorable outcome.

13 Q. With whom, who was he to lobby with?

14 A. I believe the FAA to try to get certification.

15 Q. Was Mr. Cafaro close with the Kennedy family?

16 A. I've heard stories that he was close with the
17 Kennedys.

18 Q. Did J.J. Cafaro have Kennedy family members at his
19 house in Youngstown for parties and receptions?

20 A. I don't know that.

21 Q. Were you ever at J.J.'s house in Youngstown?

22 A. Yes, I was.

23 Q. And you were never there when there were any
24 political figures?

25 A. Not that -- there may have been political figures

Rosselli - Cross

1 there but not that I was aware that they were political
2 figures.

3 Q. Were there any discussions with the Cafaros as to
4 whom in Washington J.J. was lobbying?

5 A. No, there weren't.

6 Q. J.J.'s word was taken that he was being a lobbyist,
7 right?

8 A. Yes.

9 Q. Do you know if he was a registered lobbyist under
10 U.S. law?

11 A. I don't know that.

12 Q. Now, you said that you had some limited knowledge of
13 what the product was. Do you recall your testimony of how
14 you described the laser and what it was used for?

15 A. Yes, I do.

16 Q. How big was it?

17 A. It was about six-foot long, three-foot wide and maybe
18 eight to ten inches deep.

19 Q. And as J. J. Cafaro bought the rights to Avanti, he
20 then bought the rights to the laser technology; is that
21 correct?

22 A. That's correct.

23 Q. Did you ever see it demonstrated?

24 A. Yes, I did.

25 Q. Where?

Rosselli - Cross

- 1 A. In Manassas.
- 2 Q. Who flew the plane when you saw it demonstrated?
- 3 A. Rick Detore and Rick Goldberg.
- 4 Q. Who was flying the plane?
- 5 A. I don't know who flies the plane when they're sitting
6 in the cockpit. I know they both seats had the ability to
7 fly. I don't know who was actually flying it, though.
- 8 Q. Now, U.S. Aerospace Group known as USAG, do you know
9 who the president of the company was?
- 10 A. I believe that was J.J. Cafaro.
- 11 Q. Isn't it a fact Capri Cafaro's, the daughter, was the
12 president?
- 13 A. I don't know that.
- 14 Q. How old was Capri Cafaro back in 1997?
- 15 A. I'm just guessing, early 20's.
- 16 Q. Who was the engineer or the CEO of the U.S. Aerospace
17 Group?
- 18 A. Rick Detore was the chief operating officer.
- 19 Q. Do you know if this technology was demonstrated to
20 Government officials?
- 21 A. I believe it was.
- 22 Q. How did you come to learn that?
- 23 A. When we would have status meetings to talk over what
24 progress was being made, J.J. would indicate, you know,
25 that he had certain demonstrations and to promote the

Rosselli - Cross

1 product.

2 Q. Did he ever say who set those demonstration projects
3 up?

4 A. No, he did not.

5 Q. Now, there was a \$2 million loan to LaserLine to
6 market the product. Who made that \$2 million loan for
7 marketing?

8 A. The Cafaro Company did.

9 Q. Who approved it?

10 A. Anthony Cafaro.

11 Q. Could the loan have been made without Anthony Cafaro?

12 A. No.

13 Q. Now, LaserLine got the money, and what was this
14 project to be used for?

15 A. To be used to -- for pilots and landing aircrafts at
16 airports.

17 Q. Did you not also say they had another intentional
18 purpose for its use?

19 A. That's true. They also were going to attempt to
20 market it for marine use, for guiding ships through
21 harbors.

22 Q. Now, you said that Mr. Cafaro had told you that the
23 Navy had utilized the product; is that correct?

24 A. That's correct.

25 Q. Did you, in fact, do any company investigation to

Rosselli - Cross

1 substantiate statements made by Mr. Cafaro, J.J. Cafaro?

2 A. No.

3 Q. No one in the company called the Navy?

4 A. Not that I'm aware of.

5 Q. What happened to \$2 million?

6 A. It was never paid back.

7 Q. Was there also a military utilization of this
8 product?

9 A. Yes, there was.

10 Q. Isn't it a fact on certain aircraft carriers this
11 technology had already been tested and been used?

12 A. I believe that to be true.

13 Q. Was it explained to you at any point why it was
14 important?

15 A. It was important to make it easier to land airplanes.

16 Q. What's the normal cause of a plane crash, if you
17 would know?

18 A. That I don't know.

19 Q. Well, would you say that if a plane overruns a
20 runway, there would be a crash?

21 MR. MORFORD: Objection. He said he doesn't
22 know.

23 THE COURT: He doesn't know.

24 Q. Do you fly? Have you flown in airplanes?

25 A. Yes.

Rosselli - Cross

1 Q. Have you ever had occasion when a plane may have
2 pulled up and landed again?

3 A. Yes.

4 Q. Isn't it a fact that there are runways that planes
5 are to land on?

6 MR. MORFORD: Your Honor, I object to the
7 line of questioning; that he's an expert in accounting
8 procedures but not in aviation. He's made that clear.

9 THE COURT: Right. You're asking questions
10 that can be put to anybody anywhere, but this is the
11 witness on the stand, and you're asking these questions as
12 if he has some particular knowledge.

13 MR. TRAFICANT: I apologize, but I thought
14 anybody that flew a plane knew they landed on the runway,
15 so I apologize for that.

16 Q. The bottom line is this: The product helped the
17 plane to land right on the spot where it's safe, is that
18 correct, or is that what you explained?

19 A. That's what I understood it to be.

20 Q. You know if it's used by the Park Service?

21 A. I don't know that.

22 Q. You've -- do you know if it was used for helicopter
23 landings?

24 A. I don't know that.

25 Q. Do you know that it had a portable unit that could be

Rosselli - Cross

1 carried out on a back pack and set up in the field at night
2 in covert operations for the military?

3 A. Yes, I'm aware of that.

4 Q. So having known that, did you at any time or anyone
5 in the company suggest that you call in someone from the
6 military about this product?

7 A. No.

8 Q. Now, at some point, there became an authorization for
9 \$125,000 to sort of monitor the marketing of this product;
10 is that correct?

11 A. That's correct.

12 Q. Was that a one-time shot?

13 A. No, that was \$125,000 per month.

14 Q. And did it have a time limit on it?

15 A. It was just the one-month allocation.

16 Q. And who approved that?

17 A. Anthony Cafaro.

18 Q. Now, when you said that the profit potential, when
19 asked by the Prosecutor, was huge, where did you derive
20 those figures from?

21 A. J.J. Cafaro.

22 Q. Was it a fact that J.J. Cafaro maintained that the
23 Avanti product had potential for huge profits?

24 A. That's correct.

25 Q. As the treasurer at that point now providing

Rosselli - Cross

1 marketing money, did you ask the Cafaros to conduct any
2 particular studies to substantiate the engineering
3 feasibility and the profitability of the product?

4 MR. MORFORD: Your Honor, objection. It's
5 been asked and answered at least four times.

6 THE COURT: I don't know how many times.

7 Q. Now, at the time they did not have the FAA
8 certification; is that correct?

9 A. Still did not have the FAA certification.

10 Q. What was J.J. lobbying for?

11 A. He was to trying to get FAA certification.

12 Q. And without the certification, could you sell it?

13 A. Only to a private individual, I believe.

14 Q. Where was the office of this company located?

15 A. Manassas, Virginia.

16 Q. Was the product built in Manassas, Virginia?

17 A. Yes, it was.

18 Q. Do you know if they ever built a trailer for this
19 product to transport it?

20 A. I think there was a trailer that was built, yes.

21 Q. Do you know where that trailer was built?

22 A. No, I do not.

23 Q. Did USAG not report to you their financial
24 transactions?

25 A. No, they did not.

Rosselli - Cross

1 Q. Now, J.J. Cafaro maintained homes in both Youngstown
2 and Maryland; is that correct?

3 A. That's correct.

4 Q. And Maryland being near D.C.; is that correct?

5 A. That's correct.

6 Q. You say J.J. had a car and sometimes used a private
7 plane; is that correct?

8 A. That's correct.

9 Q. Did he transport public officials on that plane at
10 times?

11 A. I have no way of knowing that.

12 Q. Do you know if there was an agreement between J.J.
13 Cafaro and myself relative to U.S. Aerospace and jobs?

14 A. No, I do not.

15 Q. You said Tony Cafaro had no role in the Aerospace
16 Group?

17 A. That's correct.

18 Q. Is that correct?

19 A. That's correct.

20 Q. But Tony Cafaro did have to make the decisions to
21 fund it?

22 A. That's correct.

23 Q. Do you know if there was a note that existed between
24 one brother and the other for repayment?

25 A. There are -- there have been notes between Anthony

Rosselli - Cross

1 Cafaro and J.J. Cafaro for various reasons.

2 Q. Well, then, you said in early 1999 there was a cap of
3 \$5 million placed on the project, and Tony Cafaro placed
4 that cap, correct?

5 A. That's correct.

6 Q. Was there a note then?

7 A. No.

8 Q. Did you have any knowledge that I was aware of this
9 \$5 million cap deadline?

10 A. No.

11 Q. At some point, did J.J. Cafaro report to the company
12 that he had asked Congressman Traficant for help?

13 A. Not that I'm aware of.

14 Q. Do you know if I did help him?

15 A. I don't know that.

16 Q. Well, there was a press release that was put up on
17 the board. I think it's Exhibit 8-10. I'd like to have
18 that exhibit, if you will, so I don't have to look for
19 mine, unless you want to. At the time that this press
20 release was issued, which was evidently June 18th of '98,
21 were you the treasurer?

22 A. Yes, I was.

23 Q. Who is that memorandum addressed to?

24 A. Anthony Cafaro, Senior, Mark Beck, and myself.

25 Q. Is that your name there?

Rosselli - Cross

- 1 A. Dominic Rosselli, yes, it is.
- 2 Q. Who is it from?
- 3 A. J.J. Cafaro.
- 4 Q. What was it about?
- 5 A. Cafaro Laser, Limited.
- 6 Q. And what did the bottom read?
- 7 A. "The key to the attached news release is." There's a
- 8 blank space "Sets the stage for next year's legislation."
- 9 Q. You can hold off right there.
- 10 A. Okay.
- 11 Q. Now, this is the news release, right. Is that the
- 12 news release?
- 13 A. Yes.
- 14 Q. What, if anything, did it say?
- 15 A. "The U.S. Navy has tested enhanced vision
- 16 technologies and plans to deploy these technologies on its
- 17 aircraft carriers. The U.S. Park Police has had great
- 18 success with cold cathode lights at its helicopter pad in
- 19 Washington, D.C. In addition, the FAA has been testing and
- 20 analyzing enhanced vision technologies for the past several
- 21 years."
- 22 Q. Who is that press release from?
- 23 A. Jim Traficant.
- 24 Q. Was it addressed to you, too, the memo, with the
- 25 attachment?

Rosselli - Cross

1 A. Yes, it was.

2 Q. Did you know at the time that I was your Congressman?

3 A. Yes, I did.

4 Q. What does the bottom say?

5 A. The last paragraph?

6 Q. Yeah. I'll try to get it so you can read it. I am
7 not good at this.

8 A. "Traficant said he will work next year to pass
9 legislation requiring U.S. airports to install enhanced
10 vision technologies, to replace enhanced conventional
11 landing lights system over a ten-year period.

12 Q. After having received this, you're saying it didn't
13 know that Mr. Cafaro would come to me?

14 A. I didn't know that you -- that he was having
15 conversations with you, that you would generate this.

16 Q. Did you ever come to learn that I had helped
17 Mr. Cafaro with this?

18 A. Well, I could assume that from the press release.

19 Q. Why was that press release so important?

20 A. Because it showed that progress was being made
21 towards getting FAA certification.

22 Q. How do you know the legislation was going to pass?

23 A. You didn't, but it indicated that progress was being
24 made towards that.

25 Q. Isn't it a fact the Prosecutor said the cap expired

Rosselli - Cross

1 the following month?

2 A. That's correct.

3 Q. Did you have meetings about whether or not to
4 continue on with the laser program or to kill it?

5 A. There were meetings, yes, there were.

6 Q. And what did -- what was the decision?

7 A. The decision was made to continue.

8 Q. Was there another loan from the trust?

9 A. Yes, there was.

10 Q. For how much?

11 A. \$2.5 million.

12 Q. Who approved it?

13 A. Anthony Cafaro.

14 Q. Who would approve the expenses?

15 A. J.J. Cafaro would.

16 Q. Was anybody assigned to monitor J.J.'s activities and
17 expenses since the debacle of the Avanti project?

18 A. With respect to this project, I was.

19 Q. And did you do that?

20 A. Yes.

21 Q. And when was this \$2.5 million, was there a deadline
22 set up, look, if something doesn't happen, this is it?

23 A. I don't recall if there was a specific deadline for
24 the \$2.5 million.

25 Q. You said at some point J.J. started paying out of his

Rosselli - Cross

1 own personal account?

2 A. That's correct.

3 Q. Why would J.J. do that unless the company stopped
4 providing funding, money for them?

5 A. They stopped providing funding when the \$2.5 million
6 ran out.

7 Q. So there was sort of like an ultimatum, right?

8 A. Yes, to the extent the money was available out of the
9 \$2.5.

10 Q. Now, you said there became a problem over withholding
11 in paychecks?

12 A. That's correct.

13 Q. Could you explain that to the jury?

14 A. An employer, when they issue a paycheck, they have to
15 withhold a portion of the paycheck that has to be submitted
16 to the Government for the taxes. The employer has a
17 responsibility to pay that money to the Internal Revenue
18 Service for credit to that employee's taxes.

19 Q. Did you discover that, or did the IRS discover that?

20 A. I discovered that.

21 Q. What, in fact, did you do?

22 A. I met with Anthony Cafaro to discuss the implications
23 of that.

24 Q. And what, if anything, did Anthony Cafaro do?

25 A. He agreed with my recommendation that we should

Rosselli - Cross

1 continue to fund at least the payroll taxes that were due.

2 Q. And how much was that, do you recall?

3 A. I do not recall the amounts.

4 Q. You tried to nip it in the bud?

5 A. That's correct.

6 Q. Did you at that point see bad business management?

7 A. Yes.

8 Q. Did you report that to Anthony Cafaro?

9 A. Yes.

10 Q. Then there was a loan that was made from Bank One for
11 \$900,000 to J.J. Cafaro; is that correct?

12 A. That's correct.

13 Q. Who guaranteed the loan?

14 A. Anthony Cafaro.

15 Q. Wasn't that after you recommended to him there was
16 bad business management at U.S. Aerospace Group?

17 A. That's correct.

18 Q. And was it not your statement that J.J. Cafaro did
19 not have the credit quality to get the loan on his own?

20 A. That's correct.

21 Q. Did he still own the two homes in Maryland and in
22 Youngstown?

23 A. That's correct.

24 Q. Were those mortgaged?

25 A. I do not believe so.

Rosselli - Cross

1 Q. Why did he have to go to his brother since those
2 homes are valued very high, aren't they?

3 A. Yes, they are.

4 Q. What are they worth if combine the both of them?

5 A. Several million dollars.

6 Q. So through all this, regardless of all the verbiage,
7 who was providing the money?

8 A. J.J. Cafaro.

9 Q. Through loans?

10 A. That's correct.

11 Q. And who approved them?

12 A. Anthony Cafaro.

13 Q. And if Anthony Cafaro didn't approve them, would
14 there have been any laser technology?

15 A. No, there would not.

16 Q. Now, the Government said to go \$5 million, \$2 point 5
17 million, \$900,000, J.J. paying on his own account, and then
18 in January of 2000, was there authority given for another
19 \$800,000?

20 A. That's correct.

21 Q. Who, in fact, approved it?

22 A. Anthony Cafaro.

23 Q. Did you make any recommendations about that?

24 A. No, I did not.

25 Q. Who was it that appealed to Mr. Anthony Cafaro to

Rosselli - Cross

1 give that one last shot?

2 A. I understand that to be Capri Cafaro.

3 Q. And who was Capri Cafaro?

4 A. J.J. Cafaro's daughter.

5 Q. Is U.S. Aerospace bankrupt now?

6 A. Yes.

7 Q. Was Capri Cafaro an engineer?

8 A. Not that I'm aware of.

9 Q. Was J.J. an engineer?

10 A. Not that I'm aware of.

11 Q. Was Anthony an engineer?

12 A. Not that I'm aware of.

13 Q. Were you an engineer?

14 A. No.

15 Q. Did you ever call Richard Detore in and ask him as
16 CEO what the profitability status was and the certification
17 status?

18 A. I personally did not.

19 Q. Did you recommend it?

20 A. Did I recommend what? I'm not sure I understand the
21 question.

22 Q. Did you recommend that the CEO of USAG come in and
23 talk with Anthony Cafaro since he's approving \$10 million
24 worth of loans?

25 A. No, I did not.

Rosselli - Cross

1 MR. TRAFICANT: Your Honor, I have more
2 questions for this witness. I want to just let you know
3 that, and I want to let you know what time it is and what
4 you want me to do.

5 THE COURT: Well, I think we have another
6 five or six minutes here. So you can use it.

7 MR. TRAFICANT: Okay.

8 Q. Now, you understood that not only did he own the two
9 homes, he also owned a 110-foot wooden yacht?

10 A. That's correct.

11 Q. Were you ever on that yacht?

12 A. No, I was not.

13 Q. Now, at some particular point, you got a bill for a
14 \$3,000 expense on a boat, right?

15 A. I don't recall what the amount of the expense was.

16 Q. Well, to reimburse a receipt to Al Lange for \$3,000,
17 you remember the Prosecutor asking you about that?

18 A. I don't know what the expenses were for, though, the
19 \$3,000 expense reimbursement.

20 Q. Yes, but was there not a request for \$3,000 for Al
21 Lange for a boat?

22 A. I don't know what the nature of the request was for.

23 Q. But did you know that there was a request made for
24 \$3,000?

25 A. A request for \$3,000, yes.

Rosselli - Cross

1 Q. And how did you list it?

2 A. As an expense of.

3 Q. Did you first write a 1099 to Al Lange?

4 A. Yes, we did.

5 Q. Why?

6 A. Because we had no substantiation that it was a
7 business expense.

8 Q. So you did have somebody do at least some type of
9 auditing to find out if there's any documentation
10 substantiation for it, right?

11 A. Yes, we did.

12 Q. Did you do that personally?

13 A. No.

14 Q. Did you personally direct your staff to do it?

15 A. Yes.

16 Q. And what, if anything, did they find?

17 A. I don't know what the response was to the staff.

18 Their action was to eliminate the 1099 based on a memo from
19 J.J. Cafaro.

20 Q. Now, did you work for J.J. Cafaro or Anthony Cafaro?

21 A. I worked for the Cafaro family in its entirety.

22 Q. Who was the boss?

23 A. Anthony Cafaro.

24 Q. Did you confer with Mr. Anthony Cafaro about the memo
25 and the controversy relative to an IRS issue of a 1099

Rosselli - Cross

1 versus a normal W-2?

2 A. No, I did not.

3 Q. So on the advice of a memo, you then change it from a
4 1099 income to a USAG expense account?

5 A. That's correct.

6 Q. And you also did that for a Mr. Rick Detore as well,
7 didn't you?

8 A. I believe that's true, although I don't know that for
9 sure.

10 Q. Who asked to you do that?

11 A. That came from a memo from J.J. Cafaro.

12 Q. Now, were these employees paid by U.S. Aerospace
13 Group?

14 A. They were paid by the Cafaro Company, and then Cafaro
15 Company would bill U.S. Aerospace Group for the payroll
16 expense.

17 Q. Were they on the Cafaro Company Group insurance
18 policy, or did they have a separate insurance policy?

19 A. They were on the Cafaro Group insurance.

20 Q. Well, if they're on the Cafaro Company Group
21 insurance policy, whose employees were they, U.S. Aerospace
22 or Cafaro employees?

23 A. They're on the payroll of Cafaro Company who then
24 bills U.S. Aerospace for the expense, but they were on the
25 payroll of the Cafaro Company.

Rosselli - Cross

1 Q. But U.S. Aerospace had no money and kept borrowing it
2 from Tony?

3 A. They borrowed the money from J.J.

4 Q. So J.J. borrowed money from his brother to put in his
5 account to pay insurance for U.S. Aerospace employees on
6 the Cafaro Group insurance plan. Is that your testimony?

7 A. That's correct.

8 Q. Did anyone ever ask to meet with the Internal Revenue
9 Service relative to the aspects of that relationship?

10 A. Not that I'm aware of.

11 MR. TRAFICANT: I have more questions. You
12 want me to keep going?

13 THE COURT: No. It's a good time to break.
14 We'll break now and see you at 9:00 in the morning? Okay.
15 Remember all your admonitions. Have a pleasant evening.
16 It's beautiful outside.

17 (The following proceedings were out of the presence
18 of the jury:)

19 THE COURT: Do we have exhibits to do
20 tomorrow?

21 MR. SMITH: No. We'll do it tomorrow. We
22 have a lot to do tomorrow.

23 MR. MORFORD: I believe the Court indicated
24 earlier you wanted to take up the Congressman's motion from
25 this morning this afternoon at 4:30. I don't know if

1 that's still the extent.

2 MR. TRAFICANT: I would prefer to submit it
3 in writing, your Honor.

4 THE COURT: Well, you -- I think we'd better
5 get straight what we're talking about. I told you to
6 submit the two motions made orally this morning in writing.

7 MR. TRAFICANT: I didn't -- I don't have them
8 prepared, your Honor.

9 THE COURT: All right. That's okay.

10 MR. TRAFICANT: I apologize.

11 THE COURT: Nothing will happen to those
12 until they're submitted and filed properly with the Court.

13 MR. TRAFICANT: Thank you.

14 THE COURT: But you filed something else this
15 morning, Congressman.

16 MR. TRAFICANT: Pardon?

17 THE COURT: You filed something else this
18 morning.

19 MR. TRAFICANT: That will be a part of the
20 motion. I filed an affidavit, and we'll deal with that as
21 part of the motion when I submit my motion.

22 THE COURT: I don't believe it relates to
23 either of the motions that you said you were going to make
24 this morning. Is there another motion?

25 MR. TRAFICANT: No. This deals with the

1 affidavit that was filed this morning. That'll be part of
2 it.

3 THE COURT: Which motion was that part of?

4 MR. TRAFICANT: This is the affidavit of --

5 THE COURT: Well, I know it's the affidavit,
6 but what motion is it part of?

7 MR. TRAFICANT: I'm going to file a motion
8 and make it a part of a motion asking for the Court to
9 consider an action that I request.

10 THE COURT: So this is a third motion you're
11 going to file?

12 MR. TRAFICANT: No. This is the motion that
13 I'm going to file.

14 THE COURT: Okay.

15 MR. TRAFICANT: I'll combine the two that I
16 talked about into one.

17 THE COURT: Hold on, we'll go back. Just
18 hold on. Go back and look at this morning's record. I
19 need to go all the way back to before the jury came in.
20 But we need to let the jurors go while you search the
21 record.

22 (Thereupon, the record was read back by the Court
23 Reporter.)

24 MR. MORFORD: Your Honor, as to the motion
25 he's making about Agent Speranza, that was something raised

1 pre-trial the Court considered and denied.

2 THE COURT: Yeah. Well we may -- we may -- I
3 have to wait and see what he -- what he actually files
4 before I can do it. And you have to wait before you can
5 respond to it.

6 MR. MORFORD: I understand.

7 THE COURT: So as soon as you file something,
8 we'll take the next steps as we normally do. Okay?

9 MR. TRAFICANT: As soon as I can.

10 THE COURT: Okay. They're your motions, and
11 I have got to do something. You can't just put something
12 out like this on a docket in a court proceeding.

13 MR. TRAFICANT: I'm going to --

14 THE COURT: Sir, these are very serious
15 allegations that you have decided to put on a docket in a
16 court proceeding.

17 MR. TRAFICANT: Yes, I have.

18 THE COURT: You can't just hang them up there
19 and leave them out to wave. You have a responsibility to
20 make whatever motion you're going to make in regard to
21 these and to do it as soon as you possibly can do it.

22 MR. TRAFICANT: If they have to be
23 handwritten, would that be fine with you?

24 THE COURT: Just do what you have to do in
25 order to get them.

1 MR. TRAFICANT: I certainly shall.

2 THE COURT: Fine.

3 MR. MORFORD: Your Honor, I would request,
4 given the serious nature of these allegations, given the
5 fact that obviously Congressman Traficant knows what it is
6 he's going to ask the Court to do, given the fact that on
7 prior occasions he's indicated that he does have some
8 people assisting him with some of these things, and given
9 the fact that he does have time tonight, that he be ordered
10 to file whatever he's going to file very quickly because I
11 think it's wrong to throw these allegations out there, flop
12 an affidavit in the record and go out and talk to reporters
13 and go on national TV when you're talking about somebody's
14 life and their reputation.

15 And I would just ask if he has something, that he be
16 ordered to file it immediately, and that he not be using
17 this Court as a way to tarnish other people's reputation.

18 THE COURT: Well, the word forthwith.

19 MR. TRAFICANT: Can I respond?

20 THE COURT: The word forthwith is the best
21 word to use when you need to file something, and you really
22 need to understand this, Congressman. This is not anything
23 to play around with nor is your conduct outside the Court
24 anything to play around with.

25 MR. TRAFICANT: Are you suggesting that

1 I'm --

2 THE COURT: My aim in this case is to give
3 you and the Government a fair trial. That's what I care
4 about. I care about your conduct here in this court and as
5 it relates to this Court's docket.

6 MR. TRAFICANT: Can I respond?

7 THE COURT: You can respond by filing a
8 motion forthwith that has some bearing to this affidavit
9 that you hung up on the docket today.

10 MR. TRAFICANT: I will. But I want to
11 respond to what the Prosecutor said. I think I have a
12 right to for the record.

13 THE COURT: You can -- we'll all sit here
14 while you put on the record whatever it is you want to put
15 on the record and take whatever time we need up until about
16 6:00 tonight --

17 MR. TRAFICANT: You get --

18 THE COURT: - to allow you to make the
19 record you want to make and let them respond.

20 MR. TRAFICANT: You won't have to wait that
21 long. Just get the minutes of the hearing held in Judge
22 O'Malley's court that was sealed until after the Traficant
23 trial was over regarding the Speranza matter and one of my
24 constituents who was violated. I am not making any light
25 charges here.

1 THE COURT: No. But, you're in this court on
2 your case, and we deal with things that relate to it.

3 MR. TRAFICANT: They relate to my case.

4 THE COURT: They are. File your motion.
5 Don't just stand and talk after the jury has left; file a
6 motion. You're representing yourself.

7 MR. TRAFICANT: I am, but evidently,
8 Mr. Speranza will have a part in this case.

9 THE COURT: I don't know, would you please
10 file --

11 MR. TRAFICANT: I will certainly do that.

12 THE COURT: Thank you. You've been talking
13 about it for months. Anything further?

14 MR. MORFORD: No, your Honor.

15 THE COURT: We'll see you at 8:30 tomorrow.

16 MR. TRAFICANT: Your Honor, if I've upset you
17 in any way, I apologize.

18 THE COURT: 8:30 tomorrow morning. Sir, just
19 go to work and represent yourself.

20 MR. TRAFICANT: I will do that.

21 THE COURT: Good.

22

23

24

25

1	CROSS-EXAMINATION OF KIMBERLY HARRIS BLITON.....	3222
2	REDIRECT EXAMINATION OF KIMBERLY HARRIS BLITON.....	3235
3	RE CROSS-EXAMINATION OF KIMBERLY HARRIS BLITON.....	3237
4	DIRECT EXAMINATION OF ROBERT J. GATTI.....	3247
5	CROSS-EXAMINATION OF ROBERT J. GATTI.....	3252
6	DIRECT EXAMINATION OF THOMAS R. PASSEWITZ.....	3263
7	CROSS-EXAMINATION OF THOMAS PASSEWITZ.....	3267
8	REDIRECT EXAMINATION OF THOMAS PASSEWITZ.....	3302
9	RE CROSS-EXAMINATION OF THOMAS PASSEWITZ.....	3304
10	DIRECT EXAMINATION OF LEISEL M. BUCHEIT.....	3307
11	CROSS-EXAMINATION OF LEISEL M. BUCHEIT.....	3318
12	DIRECT EXAMINATION OF DOMINIC LOUIS ROSSELLI.....	3334
13	CROSS-EXAMINATION OF DOMINIC ROSSELLI.....	3377

C E R T I F I C A T E

I certify that the foregoing is a correct
transcript from the record of proceedings in the
above-entitled matter.

Shirle M. Perkins, RDR, CRR
U.S. District Court - Room 539
201 Superior Avenue
Cleveland, Ohio 44114-1201
(216) 241-5622